

Exhibit 2

Plaintiffs' Motion for Class Certification and Supporting Brief

SARAH L. KOOGLE; March 15, 2013

1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TROY SLACK, JACOB GRISMER,)
RICHARD ERICKSON, and)
SCOTT PRAYE, Individually, and)
as Putative Class)
Representatives,)

Plaintiffs,)

No. 3:11-cv-05843-
BHS

v.)

SWIFT TRANSPORTATION CO. OF)
ARIZONA, LLC, and SWIFT)
TRANSPORTATION CORPORATION,)
d/b/a SWIFT TRANSPORTATION,)
d/b/a SWIFT,)

Defendants.)

VIDEOTAPED DEPOSITION OF SARAH L. KOOGLE

Phoenix, Arizona
March 15, 2013
9:18 a.m.

REPORTED BY:
Janice Harrington, RPR, CRR
AZ Certified Court
Reporter No. 50844

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1 VIDEOTAPED DEPOSITION OF SARAH L. KOOGLE
2 commenced at 9:18 a.m. on March 15, 2013, at 3131 E.
3 Clarendon Avenue, Suite 108, Phoenix, Arizona, 85016,
4 before Janice Harrington, RPR, CRR, Arizona Certified
5 Court Reporter No. 50844.

6

7

* * *

8

9

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19

20 Also Present:

21 Rachel Robertson, Swift Corporate Counsel
22 Justin Hart, Videographer
23
24
25

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1 THE VIDEOGRAPHER: Here begins Volume 1,
2 Disk No. 1 in the deposition of Sarah Koogle in the
3 matter of Slack, et al. vs. Swift Transportation in
4 the United States District Court, Western District of
5 Washington at Tacoma, Case No. 3:11-cv-05843-BHS.
6 Today's date is March 15, 2013. The time on the
7 video monitor is 9:18 a.m. The video operator today
8 is Justin Hart contracted by Yamaguchi Obien Mangio
9 of Seattle, Washington.

10 This video deposition is taking place at
11 3131 East Clarendon Avenue, Suite 108, Phoenix,
12 Arizona, and was noticed by The Cochran Firm for
13 plaintiffs.

14 Counsel, please voice identify yourselves
15 and state whom you represent.

16 MR. LANE: Joseph Lane for the
17 plaintiffs.

18 MS. BRONCHETTI: Ellen Bronchetti on
19 behalf of Swift Transportation.

20 THE VIDEOGRAPHER: Thank you. The court
21 reporter today is Janice Harrington. Will the
22 reporter please swear in the witness.

23
24 SARAH L. KOOGLE,
25 called as a witness herein, having been first duly

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1 sworn, was examined and testified as follows:

2 EXAMINATION

3 BY MR. LANE:

4 Q. Would you state your name, please.

5 A. Sarah Lynn Koogle.

6 Q. Okay. Ms. Koogle -- Mrs. Koogle,
7 correct?

8 A. Yes.

9 Q. Okay. Mrs. Koogle, we -- we just met
10 before the deposition -- before we started your
11 deposition, correct?

12 A. Yes.

13 Q. I understand that you are going to be
14 testifying today in your individual capacity, but
15 that you are also designated as a person most
16 knowledgeable about certain items that we have listed
17 in a special 30(b)(6) notice of the corporate
18 representative deposition. Do you understand that?

19 A. Yes.

20 Q. And what I'd like to do, and if you want
21 to is, we can just go through the list.

22 MR. LANE: For the record, I would like
23 to mark a copy of the 30(b)(6) notice as Exhibit 1 to
24 your deposition, Mrs. Koogle.

25 (Exhibit 1 was marked for identification.)

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1 BY MR. LANE:

2 Q. And before we started your deposition,
3 your employer's counsel and I have discussed items
4 that you are expected to be able to provide testimony
5 on, on behalf of Swift. Do you understand that?

6 A. Yes.

7 Q. Okay. We've got 30 -- 35 items listed in
8 the notice, the amended notice. What I'd like to do,
9 based on our conversation, and Ms. Bronchetti can
10 help me and correct me if I misstate areas that
11 you're going to testify about, but you're going to
12 testify as to Item No. 3 on behalf of Swift?

13 MS. BRONCHETTI: Dating back to March
14 2006.

15 BY MR. LANE:

16 Q. Dating back to March of 2006, and also
17 Item No. 4, dating back to March of 2006. You will
18 also be testifying about Item No. 11, to some limited
19 capacity, dealing with the amount of overtime hours
20 worked.

21 MS. BRONCHETTI: She'll be testifying as
22 to payroll communications only. Not all
23 communications with any and/or all drivers.

24 MR. LANE: Okay. Payroll communications.
25 Got ya.

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1 BY MR. LANE:

2 Q. You're going to be testifying about Item
3 No. 12 going back to 2006, correct?

4 A. Yes.

5 Q. Item No. 16, 17, and 18 going back to
6 2006. Did I state that correctly?

7 MS. BRONCHETTI: Yes.

8 BY MR. LANE:

9 Q. Item No. 24 as to some of the items
10 listed, and those being hire date, compensation, rate
11 of pay, and I believe that's all in that one,
12 correct?

13 MS. BRONCHETTI: Correct.

14 BY MR. LANE:

15 Q. All right. Item No. 30 and Item No. 32;
16 is that correct?

17 MS. BRONCHETTI: Yes.

18 BY MR. LANE:

19 Q. Okay. We'll come back to that,
20 Mrs. Koogle.

21 MR. LANE: Let me go ahead while we're
22 marking some things. I think I only have one of
23 these, for some reason. I've got an -- that's the
24 notice of your deposition in your individual
25 capacity. We'll just mark that as Item No. 2 or

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1 Exhibit No. 2 to your deposition.

2 And I'm sorry, Ellen, for some reason, I
3 only have one of these.

4 MS. BRONCHETTI: Oh, that's -- that's
5 okay. I have it. Yeah, sure.

6 (Exhibit 2 was marked for identification.)

7 BY MR. LANE:

8 Q. Can you take a look at that and just tell
9 me, have you seen that before?

10 A. Yes.

11 Q. Okay. I'm going to show you, again,
12 while we're marking things, we'll go ahead and show
13 you a -- what I believe is a declaration that you
14 executed in another case, and we've marked that as
15 Exhibit No. 3 to your deposition, and I think it may
16 provide us some background information that we can
17 just confirm.

18 (Exhibit 3 was marked for identification.)

19 BY MR. LANE:

20 Q. Have you seen that before?

21 MS. BRONCHETTI: Do you have copies, Joe?

22 MR. LANE: I'm sorry. That was your copy
23 I was writing on. I'm sorry.

24 MS. BRONCHETTI: This looks different.

25 MR. LANE: Did I give you two different

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1 ones?

2 MS. BRONCHETTI: Oh, let's --

3 MR. LANE: Oh, it's -- oh, there's
4 something wrong with the printing on one of them.

5 MS. BRONCHETTI: Yeah. No, it's -- it's
6 just the first page. It's fine.

7 MR. LANE: I have no idea why that did
8 that.

9 MS. BRONCHETTI: That's strange.

10 BY MR. LANE:

11 Q. Have you seen that before, Mrs. Koogle?

12 A. Yes.

13 Q. Okay. And that's a case entitled -- or
14 this was a declaration that you submitted in a case
15 entitled Montalvo versus Swift; is that correct,
16 Swift Transportation Corporation?

17 A. That's correct.

18 Q. Okay. And it looks like that was done
19 back in -- sometime in November of 2011?

20 MS. BRONCHETTI: It's October.

21 THE WITNESS: October.

22 BY MR. LANE:

23 Q. I'm sorry. I was looking at the date it
24 was -- the hearing date, but assuming it would have
25 been close to that. So it was in October of 2011?

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1 A. Correct.

2 Q. Okay. In that declaration, again, you --
3 you stated that this information was true and
4 accurate to the best of your knowledge, correct?

5 A. Correct.

6 Q. Okay. I just want to go over a couple
7 things on this. We may revisit this, but as I
8 understand it, at this -- at that time, you were
9 employed with Swift Transportation Co. of Arizona,
10 correct?

11 MS. BRONCHETTI: At the time she signed
12 the declaration?

13 MR. LANE: Yes.

14 THE WITNESS: That's correct.

15 BY MR. LANE:

16 Q. And that hasn't changed, correct? You're
17 still employed?

18 A. I am still employed there.

19 Q. With Swift Transportation?

20 A. Yes.

21 Q. Okay. Been there for 10 years?

22 A. It's 11 now.

23 Q. Eleven years? Okay. And is it still
24 your duties to create reports for individual projects
25 as listed in Paragraph 1?

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1 A. Yes, that's one of my job duties.

2 Q. Okay. Including the other things listed
3 there?

4 A. Yes.

5 Q. Okay. Now, you compiled information or
6 data in that -- for purposes of that declaration and
7 provided information based on your review of the
8 corporate records, correct?

9 A. Provided information in the Montalvo
10 case?

11 Q. Yes.

12 A. Yes, some information.

13 Q. Okay. We may revisit that, but has --
14 has anything changed in terms of your -- your ability
15 to review and compile data now as compared to when
16 you prepared this?

17 MS. BRONCHETTI: Objection; vague. What
18 kind of data?

19 BY MR. LANE:

20 Q. Well, data that was used in this
21 declaration. Could you still do that today in this
22 case?

23 A. I -- I would need to --

24 MS. BRONCHETTI: Objection; vague. Go
25 ahead.

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1 THE WITNESS: I would need to review what
2 all I provided in this -- for this declaration, what
3 type of data I provided.

4 BY MR. LANE:

5 Q. Okay. Has your access to information
6 or -- or files changed since October of 2011?

7 A. No, it's not.

8 Q. Okay. Well, we'll come back to that. I
9 don't want to get bogged down on that at this point.
10 Let's talk a little about your background.

11 A. Okay.

12 Q. First of all, you -- you've lived here in
13 Phoenix for how long?

14 A. For 11 years.

15 Q. Eleven years. And you've worked with --
16 have you -- the entire time of your employment with
17 Swift, was that -- has that been since you've moved
18 here? In other words, have you been employed -- were
19 you employed with Swift after you moved here?

20 A. Yes.

21 Q. Okay. Where did you live before that?

22 A. In Silver City, New Mexico.

23 Q. Okay. Can you tell me a little about
24 your education? Do you have college degrees?

25 A. No college degrees. High school

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1 graduate.

2 Q. High school. Okay. In your work at --
3 in the payroll department at Swift, do you
4 participate in any continuing education, things of
5 that nature, seminars?

6 A. What do you mean?

7 Q. Seminars, training programs, things of
8 that nature?

9 A. Training programs that are pertaining to
10 Swift, not -- not to my job at Swift, so...

11 Q. Okay. Okay. Tell me a little bit about
12 your employment history. Now, I understand you work
13 in the payroll department now as a supervisor; is
14 that correct?

15 A. Yes.

16 Q. How long have you been in the supervisory
17 role?

18 A. I don't know the exact year, but it was
19 between 2009, 2010.

20 Q. And before that, what -- what was your
21 classification?

22 A. I've had nine positions in payroll, so to
23 go backwards is kind of difficult for me.

24 Q. Okay. Well, let's go through -- let's go
25 forward, then.

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1 A. Okay.

2 Q. When you were hired 11 years ago, what
3 were you hired as?

4 A. I was hired as a data entry person.

5 Q. Okay. Which involved -- what -- what
6 were you doing?

7 A. I was just keying in numbers into the
8 system to process a reimbursement for a driver or to
9 process what the system was going to pay as mileage
10 pay for a driver.

11 Q. Okay. And how long did you do that?

12 A. For approximately four months.

13 Q. Then what did you do?

14 A. I moved to the payroll customer service
15 help desk.

16 Q. Payroll customer service. And what did
17 you do there?

18 A. We answered every aspect of a question a
19 driver would have.

20 Q. Okay. So let me make sure I'm clear.
21 The customer you're referring to are the drivers?

22 A. Drivers and non-drivers and independent
23 contractors.

24 Q. Drivers and non-drivers. Who are the
25 non-drivers?

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1 A. Office employees.

2 Q. Okay. But when -- but, again, just so
3 I'm clear, when you say customer service, you're
4 referring to the employees at Swift or -- and
5 independent contractors?

6 A. Yes.

7 Q. Okay. How long did -- did you work in
8 that capacity?

9 A. I was there for approximately four months
10 also.

11 Q. Four months. Okay. Next?

12 A. Next, I was in a position that was for
13 student salary pay calculations and driver vacation
14 pay processing.

15 Q. Okay. How long did you work there?

16 A. I do not know for sure how long I was in
17 that position.

18 Q. Now, when you're talking about student
19 salary pay, who is the students you're referring to?

20 A. A student is a driver who's newly hired
21 with Swift that doesn't have any prior driving --
22 truck driving experience.

23 Q. Okay. Okay. Is this still in -- this is
24 11 years ago. It would be 2001 or '2?

25 A. I started in December of 2001.

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1 Q. Okay. So this would have been in 2002
2 then?

3 A. Yes.

4 Q. All right. Well, what was your next --
5 what was your next job --

6 A. My next job --

7 Q. -- position?

8 A. -- was still in the payroll department.
9 I was Robin Rohwer's administrative assistant.

10 Q. Okay. All right. Do you remember when
11 you filled that job?

12 A. I do not remember.

13 Q. Do you remember roughly how long?

14 A. I was in that position for probably a
15 year and a half.

16 Q. Okay. All right. That's -- looks like
17 that's No. 4. Let's -- you're doing good, because I
18 don't know how you can remember all of that, but the
19 next -- next position?

20 A. My next position was called a payroll
21 liaison position.

22 Q. Payroll liaison. Well, I didn't ask you
23 what you did for Robin Rohwer -- I mean, Rohwer.
24 What -- what was your job duties with Mrs. Rohwer?

25 A. I've -- I've always worked with her, so

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1 are you talking about when I was her administrative
2 assistant?

3 Q. Well, when you were administrative
4 assistant, yes.

5 A. I answered all of her phone calls,
6 returned calls for her, helped with answering
7 e-mails. I had job duties that were, like, handling
8 our bank account, payroll bank account information,
9 registering paychecks that have went out, the check
10 numbers and dollar amount. Working on just
11 independent projects for her that would be like
12 employment verifications or just written
13 correspondence for her, letters that she's needing
14 done. That's -- that's about it.

15 Q. Okay.

16 A. That I can recall.

17 Q. And you did that for about a year and a
18 half?

19 A. That's correct.

20 Q. Okay. What -- I didn't ask you this
21 before, but were these what you would consider
22 promotions when you were moving from one position to
23 the other or just horizontal?

24 A. They're all promotions.

25 Q. They're all promotions. Okay. So and we

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1 were up to payroll liaison. That was a promotion
2 from the administrative assistant position?

3 A. That's correct.

4 Q. Okay. And what -- what was your job
5 there?

6 A. My job duties as a payroll liaison were
7 to do training for -- do payroll training for people
8 that were within the payroll department.

9 Q. Okay.

10 A. Payroll training for managers outside of
11 the payroll department, writing processes on how to
12 process a receipt to get processes documented, and I
13 still, like, assisted with some of Robin's
14 administrative duties. I assisted with the payroll
15 customer service help desk still. So I had, like, a
16 training position where I would train people, but I
17 also helped in areas that I had been trained in to
18 fill people who were absent due to sickness or just
19 weren't there that day.

20 Q. Okay. So and that was called payroll --
21 payroll liaison, right?

22 A. That's correct.

23 Q. Okay. How long did you work in that
24 position?

25 A. I was in that position for probably three

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1 years.

2 Q. Do you remember roughly the years that
3 you worked in that position?

4 A. It was probably more along the line of
5 two years. So it would have been from between 2003
6 and 2005.

7 Q. Okay. All right. And then what position
8 did you move to after that?

9 A. After that position, I moved to the owner
10 operator, which is the independent contractors, just
11 a processor, an -- a payroll processor for
12 independent contractors.

13 Q. Okay. How long did you work in that
14 position?

15 A. Probably only around eight months.

16 Q. So it takes us sometime in 2006 or so?

17 A. Yes.

18 Q. All right. And then what happened?

19 A. Then I -- how many is that? Six? Okay.
20 Then I moved to a project specialist position.

21 Q. All right. And what did you do as a --
22 in -- in the project specialist position?

23 A. In my project specialist position, I was
24 responsible for ident- -- identifying areas that are
25 related to payroll that could be streamlined,

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1 automated, better documented to make processes
2 function faster or more accurately.

3 I -- at -- in that position is when I
4 started working closely with IT to do the changes
5 that have -- had been designed, the payroll changes
6 that had been designed that would require programming
7 changes, and so I would work closely with IT to
8 identify what we were needing to have done and then
9 they would do the programming on it.

10 Q. Okay. How long did you work as a project
11 specialist?

12 A. Probably a year and a half.

13 Q. Okay. So that gets us around 2007, 2008?

14 A. That's '7?

15 MS. BRONCHETTI: '7.

16 THE WITNESS: Okay. So then -- then I
17 became --

18 BY MR. LANE:

19 Q. Wait.

20 A. I'm sorry.

21 Q. I wanted to get the right date.

22 A. Sorry.

23 Q. Can you give me your best guess on the --
24 the date range that you worked in that position?

25 A. 2007, and in that title -- I was in that

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1 title for about six months.

2 Q. Okay. Would that have been the first six
3 months or the second six months of 2000 --

4 A. Of 2007?

5 Q. Yeah.

6 A. The beginning of 2007, the first six
7 months.

8 Q. Okay. All right. That was No. 7, I
9 believe. So what next?

10 A. My next position was a -- the title was a
11 payroll supervisor.

12 Q. Okay. All right. Is -- and that's
13 your -- is that your title today?

14 A. Today, I'm a payroll project leader.

15 Q. Okay. Then --

16 A. So that's my last position.

17 Q. Okay. So in 2000 -- the latter part of
18 2007, you became payroll supervisor?

19 A. That's correct.

20 Q. And you stayed in that position how long?

21 A. I'm -- I'm still a supervisor.

22 Q. Okay.

23 A. It's just a different title now.

24 Q. Okay. What -- and your title changed
25 when then?

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1 A. My title just changed in November of
2 2012.

3 Q. Okay. And it changed to?

4 A. Payroll project leader.

5 Q. Payroll. Did your job duties change when
6 your title changed in 2012?

7 A. No, my job duties didn't change, they
8 just changed my title.

9 Q. I got you. Okay. I didn't ask you
10 before, but have you ever -- have you ever given a
11 deposition before?

12 A. No, I have not.

13 Q. Well, you're doing an excellent job in
14 the manner in which you're answering the questions.
15 And I have a habit of sometimes talking over you when
16 I think your question is over. So I -- if you'll
17 help me, I'll help you, and we'll try not to talk
18 over each other. And you've been doing a very good
19 job of -- of providing verbal answers as opposed to
20 shaking the head, nodding the head, and that's --
21 that's good for the court reporter.

22 I'll probably ask you questions that you
23 cannot be absolutely sure of the answer, but to the
24 extent that you have experience in these areas and
25 knowledge in those areas, I would ask that you

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1 provide me with your best -- your best educated
2 guess, for the lack of a better term. And you can
3 qualify that to the extent you need to, but I need
4 your best -- your best -- the best you can give me in
5 terms of the knowledge that you have; is that fair?

6 A. Yes.

7 Q. Okay. Now, I know you're -- you're -- as
8 we've talked about earlier, you are testifying to --
9 in some capacity as a representative of the company
10 on certain issues, correct?

11 A. That's correct.

12 Q. Did you -- did you review any documents
13 in preparation to testify in those areas that we at
14 least identified by number from the notice earlier?

15 A. Yes.

16 Q. Okay. What I'd like to do, if we can
17 just refer back, I believe -- was that Exhibit No. 1?
18 Looking at Paragraph No. 3 of Exhibit No. 1, just
19 the -- the 30(b)(6) notice, can you tell me, and if
20 you need to, review the wording there a little bit,
21 can you tell me what documents you reviewed in order
22 to prepare to testify in that area?

23 MS. BRONCHETTI: Objection; work product.
24 Don't answer that.

25 BY MR. LANE:

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1 Q. Did you review any company documents,
2 documents kept in the ordinary course of business at
3 Swift?

4 MS. BRONCHETTI: Objection. You can
5 answer that question to the extent that there are any
6 documents that I didn't tell you to review. Anything
7 that you independently did without my direction, you
8 can testify to. Do you understand?

9 THE WITNESS: Uh-huh.

10 MS. BRONCHETTI: Okay.

11 THE WITNESS: I did not review any
12 documents outside of legal review.

13 BY MR. LANE:

14 Q. Okay. I'm sorry, tell me your answer one
15 more time.

16 A. I did not review any documents outside of
17 legal review.

18 Q. Okay.

19 MR. LANE: And as I understand your --
20 your instructions to the witness, you're telling her
21 that she is not to tell me the documents -- the
22 corporate company documents that she reviewed in
23 preparation for her deposition?

24 MS. BRONCHETTI: Correct. Correct. She
25 can testify to anything that I didn't show her that

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1 we didn't discuss -- what I'm saying is anything
2 independent of what I selected to show her that's
3 privileged and work product.

4 MR. LANE: Okay.

5 MS. BRONCHETTI: Anything outside of
6 that, she can testify to.

7 MR. LANE: All right. Well, I disagree
8 with that, but that's something we can address at a
9 later time. Just for the record, though, I feel like
10 I'm entitled to know what documents, company
11 documents she reviewed regardless of -- of who
12 provided you those documents for purposes of your
13 preparation to testify on behalf of the corporation.

14 BY MR. LANE:

15 Q. The same question for Item No. 11.

16 MS. BRONCHETTI: I'm going to object to
17 all of those questions, and I'll just state my
18 objection. Anything that I selected to show you to
19 prepare for this deposition is -- is work-product
20 privilege. Anything outside of that, if you, on your
21 own, went and did some work, looked up documents,
22 looked at documents, said, hey, I want to prepare on
23 my own, you can testify to that. Do you understand?

24 THE WITNESS: Yes.

25 MS. BRONCHETTI: Okay. So I'll just

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1 state my objection, and I guess we can just go
2 through.

3 MR. LANE: Yeah, and we'll -- we'll have
4 to address that later. But let me just give a global
5 question, then.

6 BY MR. LANE:

7 Q. Are there any documents that you reviewed
8 on your own that your company's lawyer did not
9 provide to you or even -- well, did not provide to
10 you to review?

11 A. In preparation for the deposition?

12 Q. Yes.

13 A. No, there are not.

14 Q. Okay. And I'm going to be asking you
15 questions about a lot of documents that have been
16 produced to us today, that have been produced before,
17 which certainly have -- are not work product in terms
18 of the documents themselves because they've actually
19 been disclosed to us for purposes of -- of discovery,
20 and I would ask you -- I'm going to be asking you
21 questions about whether or not you've ever seen those
22 documents before or reviewed those documents in
23 preparation for your deposition. Can you answer
24 those questions for me?

25 A. I'm sorry, I don't --

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1 Q. If you're presented with specific
2 documents that have been disclosed in this case. We
3 can use one, if you want to pull one out.

4 MS. BRONCHETTI: But, Joe, here's the
5 problem.

6 MR. LANE: I just need to know if she's
7 looked at the documents before. I can know if she's
8 ever seen the documents.

9 MS. BRONCHETTI: Well, that's a different
10 question. I don't know why you're getting upset, but
11 that's a completely different question. You're
12 asking her a very specific question. What did you do
13 to prepare for your deposition? That's what you're
14 asking her. That includes what documents did she
15 review in preparation. She's answered that outside
16 of what I showed her, there's nothing else that she
17 reviewed in preparation for her deposition. If you
18 give her a document and say, Have you seen this
19 before? Do you actually think I'm going to object on
20 privilege?

21 MR. LANE: And that's what I wanted to
22 clear up. I -- I couldn't tell from your objection
23 whether or not that was the case.

24 MS. BRONCHETTI: Well, then, you're not
25 listening to my objection.

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1 MR. LANE: I'm listening to your
2 objection.

3 MS. BRONCHETTI: Okay. But what -- if
4 you show her a document, have you seen this before?

5 MR. LANE: That's why I wanted -- that's
6 what I was trying to determine. So how far are you
7 taking that?

8 MS. BRONCHETTI: What's your question,
9 though? You're not asking her a question. Why don't
10 you show --

11 MR. LANE: I'm going to. I'm going to,
12 Ellen.

13 MS. BRONCHETTI: Okay.

14 MR. LANE: I -- I was just seeing what --
15 to the extent that she's going to be able to answer
16 questions just because you've handed her the same
17 document at some point that she has looked at and
18 you're telling her she can't respond that she's seen
19 that document. I just want to make sure that I'm not
20 going to be wasting my time trying to ask her
21 questions --

22 MS. BRONCHETTI: Okay.

23 MR. LANE: -- based upon the -- the
24 extent of your objection.

25 MS. BRONCHETTI: I assure you, I assure

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1 you, you will not be wasting your time and I will
2 only make necessary and proper objections.

3 MR. LANE: Okay.

4 MS. BRONCHETTI: Promise.

5 MR. LANE: I understand what you're
6 saying.

7 MS. BRONCHETTI: Okay.

8 MR. LANE: That's a judgment call,
9 though. You understand that?

10 MS. BRONCHETTI: Fair enough.

11 MR. LANE: Okay.

12 BY MR. LANE:

13 Q. Let's -- let's -- let's -- let's just get
14 into some -- some documents, if we can. Well, before
15 we do that, now, you mentioned this -- that you
16 worked -- let me find my notes -- as the student
17 salary pay -- in a student salary pay position. I
18 don't know what that was called, though. What was
19 your title?

20 A. It was pay -- it was just a payroll
21 processor title, but my job duties were to process
22 student salary pay and driver vacation.

23 Q. Okay. And I -- I didn't get the date
24 range that you worked in that capacity. Do you -- do
25 you recall roughly the -- the years?

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1 A. No, I don't recall.

2 Q. Okay. Who -- who is filling that role
3 today?

4 A. The -- the role has -- the role has
5 changed since I've been in that role.

6 Q. Okay.

7 A. So --

8 Q. Tell me how it's changed.

9 A. The -- the role has changed because the
10 process has been ultimately automated so it's not
11 something a person has to manually process anymore.

12 Q. Okay.

13 A. My -- my job function was very manual.

14 Q. Okay. When did it change?

15 A. That was early 2004.

16 Q. So you would have been working in that
17 position prior to, or at the very latest, very early
18 in 2004?

19 A. Yes.

20 Q. Okay. It -- it -- did it change while
21 you were working in that position or was that a
22 change --

23 A. It --

24 Q. -- that occurred after you moved to a
25 different position?

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1 A. It -- it changed after I moved from that
2 position. It was part of the documentation and
3 development of process changes that could be enhanced
4 or improved. So then programming was done to help
5 automate parts of the process so it was not so
6 manual.

7 Q. Okay. And that occurred in early 2004?

8 A. Yes.

9 Q. Is that the system that's in place today?

10 A. The pay system or processing system?

11 Q. The -- the processing of -- of student
12 pay.

13 A. No.

14 Q. It isn't. Tell me about the changes that
15 have occurred since -- since 2004.

16 A. Are you -- are you talking about changes
17 in the process?

18 Q. Yes.

19 A. The process today is com- -- is
20 completely automated. It's not -- it's not touched
21 by payroll other than to run a batch program to pull
22 the payroll into the pay cycle.

23 Q. When did -- when did that change occur?

24 A. November 12, 2012.

25 Q. Okay. So between early 2004 and November

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1 12 of 2012, was -- was there -- was the process
2 itself changed during that period?

3 A. Other than the original change from being
4 completely manual to having it automated, some
5 automation to it, no, that's -- that's the only
6 changes that have been done up until November 12,
7 2012.

8 Q. Okay. In that -- in that process, that
9 student pay process, after the 2004 auto --
10 semi-automation, I guess is a way to describe it, was
11 there any distinction in the system in the way that
12 the process worked between drivers who held
13 Washington positions and drivers who held positions
14 outside of Washington in terms of the way student pay
15 was processed?

16 A. Can you repeat your question?

17 Q. Yes. The way in which student pay was
18 processed after the 2004 semi-automation that
19 occurred, and I'm going up to November 12th of 2012.

20 A. Okay.

21 Q. Was there any distinction or in the
22 process itself between -- in the way that the pay is
23 processed between Swift drivers who held positions in
24 Washington versus Swift drivers elsewhere?

25 MS. BRONCHETTI: I'm -- I'm going to

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1 object to the term "drivers" -- I'm just going to
2 object that it's vague in several respects, Joe. And
3 I know that I don't want to get involved, but I think
4 you have to explain what process means, and I also
5 think you need to explain what you mean by
6 Washington, Washington drivers. I think that's --

7 BY MR. LANE:

8 Q. Well, Washington, holding Washington
9 positions, and we can do that. I -- I was hoping
10 that that was a fairly common term based on the
11 testimony yesterday, but if it's not, then I'll tell
12 you my understanding. It's based on Mrs. Rohwer's
13 testimony.

14 It was my understanding that Washington
15 drivers are designated as Washington drivers, at
16 least in terms of whether or not they hold Washington
17 driving positions. Do you know what I'm -- what I'm
18 talking about when I say a Washington driving
19 position -- a Washington driver position?

20 A. The position code that they're assigned
21 to --

22 Q. Yes.

23 A. -- from the -- the personnel system?

24 Q. Yes.

25 A. Yes, they're in a Washington student

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1 position code.

2 Q. Okay. And -- okay. And that would be
3 the students, correct?

4 A. Yes.

5 Q. And is that the same way it works for
6 drivers after they finish their training and become
7 solo drivers or whatever, are they -- are they then
8 assigned a Washington driving position for those
9 drivers who are going to be working out of
10 Washington?

11 A. Depending -- depending on the type of
12 work that they're going to do, yes.

13 Q. Okay.

14 A. If they decide to change terminals, then
15 it would be another position that would be used.

16 Q. Okay. All right. And the positions, as
17 I understand it, that designate -- does that
18 designate the home terminal for the driver?

19 A. It --

20 Q. Is that what the position --

21 A. It designates the location, the building
22 or on-site location is located -- located in, the
23 state that the location is located in that they're
24 managed out of.

25 Q. Okay. All right. And do you consider

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1 that -- I've heard the term "home terminal" used in
2 various circumstances. Is that basically
3 establishing what the home terminal would be for the
4 driver?

5 A. Yes.

6 Q. Okay. Now, we were talking about the
7 student salary pay process, and that's where I was
8 using the term "position." For those, is there in
9 the system itself, from 2004 up until November of
10 2012, was there any in the semi-automated system, was
11 there any distinction made between drivers working in
12 a Washington position, student drivers working in a
13 Washington student position versus drivers working
14 outside of Washington in a -- in a different
15 position?

16 A. It's -- what do you mean by distinction,
17 though?

18 Q. A distinction that says, okay, if you're
19 working in a Washington student position, your pay is
20 going to be calculated differently than drivers
21 outside of Washington?

22 A. So you're asking about the pay now or --

23 Q. I'm asking about the process that
24 would -- that would result in a different pay for
25 Washington drivers versus drivers outside of

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1 Washington.

2 A. The -- the pay is -- the pay is dependent
3 upon the -- the management of the student, not
4 anything that we -- that we have designated.

5 Q. Okay. Are you aware of any -- any
6 component of the system that existed between 2004 and
7 November 2012 that -- for student pay that either
8 automated or manually accounted for overtime pay for
9 hours worked over 40?

10 MS. BRONCHETTI: Objection.

11 BY MR. LANE:

12 Q. During the training process?

13 MS. BRONCHETTI: Vague and ambiguous.
14 You can answer, if you understand his question.

15 THE WITNESS: Can you repeat your
16 question again?

17 BY MR. LANE:

18 Q. Yeah. And I'm asking about anything in
19 the system that either automatically or manually
20 accounted for overtime pay for student drivers during
21 the training period, regardless of how long it was,
22 for Washington student drivers.

23 A. I'm not aware of anything that would --
24 that was flagged that way.

25 Q. Okay. Was that something that would

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1 typically be -- is it -- was it common for -- well,
2 have you ever during the time you were working --
3 working in that position, did you make entries into
4 the system manually to pay student drivers who worked
5 over 40 hours in a week overtime at -- at time and a
6 half for Washington drivers?

7 A. No, because we don't control the entry of
8 the pay. All we do is process it.

9 Q. I understand.

10 A. That pay is entered by a manager and we
11 run a batch process that just pulls it into the
12 payroll cycle.

13 Q. Okay.

14 A. The dollar -- the dollar amounts are not
15 determined by payroll.

16 Q. Okay. Well -- well, the hours are not
17 determined by payroll, correct?

18 A. The hours or the dollar amounts. The
19 manager is responsible for entering the dollar
20 amounts also.

21 Q. Okay. Are you aware of any instances
22 where the managers would send in pay data that --
23 that you recognized as being time and a half for any
24 hours worked over 40 for Washington trainees?

25 MS. BRONCHETTI: Objection; overbroad as

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1 to time.

2 BY MR. LANE:

3 Q. During the time that you were working?

4 MS. BRONCHETTI: Over 11 years?

5 MR. LANE: Well -- well, in the -- in
6 the -- well, I was talking about when she was working
7 in the student salary pay position.

8 THE WITNESS: Can you repeat your
9 question again?

10 BY MR. LANE:

11 Q. Well, you said it's the manager's job to
12 send in the pay data, correct?

13 A. Uh-huh.

14 Q. Does the manager calculate -- are you
15 aware at any time when a manager sent you information
16 and said, here's the pay for 40 hours, here's the
17 time and a half pay for the 15 hours this student
18 worked overtime? Have you ever had any data that
19 came to you that you then entered into the system
20 when you were working in that position?

21 A. I didn't enter -- I didn't enter pay into
22 the system. They entered the pay into the system,
23 the manager did.

24 Q. Okay. All right. Well, are you aware in
25 the -- at any time when you worked in this

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1 department, the student salary pay or training anyone
2 or -- or otherwise where you recognize amounts being
3 put in to account for overtime for student drivers in
4 the Washington position?

5 A. As a separate dollar amount? I'm not
6 aware of that, no.

7 Q. Okay.

8 THE WITNESS: Can we take a break real
9 quick?

10 MR. LANE: Yeah, sure.

11 THE WITNESS: Okay.

12 THE VIDEOGRAPHER: Off record at 10:03
13 a.m.

14 (Recessed from 10:03 a.m. to 10:17 a.m.)

15 THE VIDEOGRAPHER: Back on record at
16 10:17 a.m.

17 BY MR. LANE:

18 Q. Mrs. Koogler, I'm going to show you
19 what -- what I've marked as Exhibit No. 4 to your
20 deposition, and...

21 A. Thank you.

22 MS. BRONCHETTI: Thank you.

23 (Exhibit 4 was marked for identification.)

24 BY MR. LANE:

25 Q. Can you tell me if you've -- if you've

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1 seen that before? Do you know what that is?

2 A. It looks like Robin's declaration.

3 Q. Yes. And it's -- it was submitted in
4 this case. So did you have -- did you play any role
5 in -- in developing or gathering the information that
6 was used to prepare this declaration?

7 A. I believe I provided the information in
8 No. 9.

9 Q. Paragraph No. 9 of the -- of Exhibit No.
10 4? Okay.

11 MS. BRONCHETTI: You believe you did or
12 you did?

13 THE WITNESS: I did.

14 BY MR. LANE:

15 Q. Anything else?

16 A. I do not think so. I think that is the
17 only one.

18 Q. Okay. Now, let me ask you about --
19 because you prepared -- we marked, I think earlier,
20 one of your exhibits there on the Mon- -- Montalvo
21 case where you submitted a declaration. And that --
22 what exhibit number was that again?

23 MS. BRONCHETTI: Three.

24 MR. LANE: Three? Okay. I forgot to
25 mark mine.

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1 BY MR. LANE:

2 Q. And you submitted very similar
3 information in that case that Mrs. Rohwer talked
4 about in her declaration, correct?

5 MS. BRONCHETTI: Objection; vague and
6 ambiguous.

7 BY MR. LANE:

8 Q. In other words, you submitted information
9 describing the orientation process, correct?

10 MS. BRONCHETTI: Objection; misstates the
11 witness' testimony.

12 MR. LANE: Well, I'm -- I'm looking at
13 her -- I'm looking at Exhibit 3.

14 BY MR. LANE:

15 Q. I'm not referring to what you testified
16 to, but what you actually stated in your declaration.
17 Does your declaration contain a description of the
18 orientation process as you understand it?

19 Okay. Let me -- let me just do this:
20 Let me ask you about the -- about some of the facts
21 that Mrs. Rohwer provided. You said you provided the
22 information in Paragraph No. 9.

23 MS. BRONCHETTI: Are you back to Exhibit
24 4 now, Joe?

25 MR. LANE: Yeah, I am back to Exhibit No.

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1 4.

2 BY MR. LANE:

3 Q. I'm -- I'm just -- I'm going to read part
4 of it so I can just ask you questions about it.
5 Okay?

6 A. Okay.

7 Q. Paragraph 9 starts with, "Based on a
8 compilation of corporate data and records available
9 at this time, which I obtained and reviewed, and
10 which is located in Phoenix, Arizona, I estimate that
11 there are approximately 1,319 employee drivers who
12 have worked for Swift in Washington in the four years
13 prior to the filing of the Amended Complaint." And
14 we're talking about this, the Complaint in this case,
15 correct?

16 A. Correct.

17 MS. BRONCHETTI: Objection. This is not
18 her declaration.

19 MR. LANE: No, I understand that.

20 MS. BRONCHETTI: She cannot testify as to
21 what Robin said. You can ask her about a content.

22 MR. LANE: I'm going to ask her.

23 MS. BRONCHETTI: Okay.

24 MR. LANE: I was just reading the
25 sentence so I could ask her about items in there that

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1 she said she provided data for.

2 MS. BRONCHETTI: Okay.

3 BY MR. LANE:

4 Q. All right. Now, are you the one who
5 compiled the corporate data and records that she
6 mentions in there? Is that what you're referring to?

7 A. That she mentions in No. 9?

8 Q. Yes.

9 A. Yes.

10 Q. Okay. What -- what records did you go
11 to, to arrive at -- well, let me just ask you, did
12 you -- are you the one that gave her the number that
13 said there were 1319 employee drivers who work for
14 Swift in the four years prior to filing the Amended
15 Complaint in the state of Washington?

16 A. I -- I prepared the reporting, yes.

17 Q. Okay. And what data did you rely on to
18 come up with it? How did you come up with the
19 number?

20 A. Which number are you talking about?

21 Q. 1319 employee drivers.

22 A. Without looking at my notes, I can't be
23 absolutely sure.

24 Q. Okay. What -- what records would you go
25 to in order to arrive at those -- those -- how would

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1 you go about getting that information?

2 A. For the 1319 employee drivers, I would
3 identify for the time frame of what's requested. I
4 would identify which payroll records processed during
5 that time frame and had a payment record, a payroll
6 record to a driver that was assigned to a Washington
7 terminal location or on-site location.

8 Q. And that assignment is what we were
9 talking about earlier when you were talking about
10 they're assigned to a particular position, which
11 represents a particular home terminal for that
12 driver; is that correct?

13 A. That's correct. They don't tech- --
14 technically work out of that location. They are just
15 assigned to the location.

16 Q. Okay. And typically -- well, we'll --
17 we'll -- we'll talk about that in a minute. But so
18 this 1319 represents all drivers who were assigned,
19 during the four-year period who were assigned to a
20 position in a Washington terminal, correct?

21 A. That were -- yes, that were -- had a
22 payment record, a payroll record during the time
23 frame that was requested where, like, the GL account
24 information is tied to a Washington terminal
25 information.

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1 Q. Okay. Now, the next sentence talks about
2 323 drivers in Washington that work in Washington
3 during -- during any given week. Did you provide
4 that information?

5 A. I didn't provide information of who
6 worked in Washington. I provided information of who
7 was assigned to a Washington location.

8 Q. Okay. Let's break it down. "I further
9 estimate that on average" -- again, this is not your
10 words, but Ms. Rohwer's words -- Mrs. Rohwer. It
11 says, "I further estimate that, on average, Swift
12 employed approximately 323 drivers in Washington
13 during any given week during the three years prior to
14 the filing of the Amended Complaint."

15 Now, just so I'm clear, did you provide
16 the -- based on that complete statement, did you
17 provide that information that there were 323 drivers
18 employed by Swift in Washington during any given week
19 during those three years?

20 A. An average of Washington drivers that
21 were assigned to a Washington location over the three
22 years, there was approximately 323 drivers during a
23 week.

24 Q. Okay. And what is your understanding of
25 the -- when she says, "Swift employed," what is your

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1 understanding of that? How do you define Swift
2 employed in Washington? In other words, what
3 classifies them as being employed in Washington?

4 MS. BRONCHETTI: Objection; asked and
5 answered.

6 BY MR. LANE:

7 Q. Is that the same thing that they have a
8 position code, a Washington position code?

9 A. Yes.

10 Q. So that -- and that would mean they were
11 employed in Washington?

12 A. They were employed in a position that was
13 based out of Washington.

14 Q. Right. Okay. Now, the next paragraph
15 says, "I also estimate that approximately 787
16 employee drivers have left their employment with
17 Swift during the three years prior to the filing of
18 the Amended Complaint." Did you provide that
19 information?

20 A. Yes, I did.

21 Q. And how did you arrive at that?

22 A. Using the same information -- the same
23 selection criteria of identifying drivers who were --
24 work -- or based out of a Washington location. I
25 didn't use -- the first ent- -- entry said, for the

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1 last four years, the prior four years.

2 Q. Right.

3 A. So the second part of it was within the
4 last three years.

5 Q. Right.

6 A. So it was out of the employees that were
7 within the last three years, paid out of a Washington
8 location, who had a termination date at the time I
9 did this information.

10 Q. Okay.

11 A. So they had left the company for whatever
12 reason.

13 Q. Moving on to the next page, which is
14 still part of Paragraph No. 9. It says,
15 "Furthermore, I estimate that approximately 1,120
16 individuals attended orientation for the position of
17 driver with Swift in Washington during the class
18 period." Did you provide that information?

19 A. Yes, I believe I did.

20 Q. Okay. How did you derive that -- that
21 number? What -- what did you do to come up with that
22 number?

23 A. I would not know without going back to my
24 notes. I don't have my notes with me.

25 Q. Okay. All right. But you -- you

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1 reviewed records and -- and did a search through your
2 data to come up with that information?

3 A. Yes.

4 Q. Okay. To what extent are you familiar --
5 familiar with the orientation process?

6 A. I am not familiar with orientation at
7 all. I'm not part of it.

8 Q. Do you -- do you know if it is required
9 of every new hire to go through orientation? Do you
10 have any knowledge about the requirements or whether
11 or not every driver has to go through that or is that
12 somebody else's?

13 A. That's somebody else's area.

14 Q. Okay. Have you ever provided a -- a
15 declaration -- I know you've provided a declaration
16 in a couple of cases. We've talked about that. But
17 I believe you've done one in this case as well
18 recently, correct?

19 A. I -- I -- possibly. I don't -- I don't
20 remember.

21 Q. Okay. How -- how many times would you
22 say you've provided declarations such as the -- the
23 one that we marked earlier, I think Exhibit 3? That
24 was one you did. Have you provided declarations in
25 other matters?

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1 A. For other cases?

2 Q. Yes.

3 A. Yes.

4 Q. Okay. How many times have you done that?

5 A. I would say probably four to six times.

6 Q. Okay. When was -- roughly, when was the
7 first time you submitted a declaration in a matter
8 involving Swift?

9 A. In any matter involving Swift, just
10 within the last two years was my first time.

11 Q. Okay. Have you ever in any of those
12 declarations, have you ever provided information
13 describing the orientation process such as what we
14 see in Paragraph 10 of Exhibit No. 4?

15 A. Have I ever provided information that
16 explains the orientation process?

17 Q. Have you ever submitted a -- a
18 declaration where you provided information describing
19 the orientation process similar to what we see in
20 Paragraph No. 10?

21 A. I don't believe so.

22 Q. Okay.

23 A. I don't know what the orientation process
24 is.

25 Q. All right. Paragraph 11, did you -- did

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1 you do any reporting or research to develop the
2 information that's contained in Paragraph 11?

3 A. I am not sure if I provided that
4 information. Robin has the same ability to get the
5 information, so I'm not sure if I provided it or if
6 she did.

7 Q. Okay. Just one second. I'm sorry.
8 Who's the -- who's the heading (sic) -- the head of
9 the marketing department? Do you know who the head
10 of -- do you have a marketing department at Swift?

11 A. I honestly don't know.

12 Q. Okay. So you don't know who the head is,
13 then, if they do, right?

14 A. No.

15 Q. I -- I just noticed in Paragraph 5,
16 there's a -- there's a notation of there being a
17 marketing office or department, or something of that
18 nature. You're not familiar with that?

19 A. On --

20 MS. BRONCHETTI: Objection; asked and
21 answered. Go ahead.

22 THE WITNESS: On Item No. 5, is that what
23 you --

24 BY MR. LANE:

25 Q. In Paragraph 5. I'll just read the

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1 sentence. It's the third sentence, I believe. It
2 says, "The majority of the company's administrative
3 functions (including that of legal, payroll, human
4 resources, marketing, operations and planning) are
5 conducted in Phoenix, Arizona." I assume there's a
6 marketing department based on that statement.

7 A. I'm --

8 MS. BRONCHETTI: Objection; asked and
9 answered. She said she had no idea. And you're
10 asking --

11 MR. LANE: I'm really not asking a
12 question. I was just pointing out where I was
13 getting it from for her information.

14 BY MR. LANE:

15 Q. Are you aware of -- of what is -- what
16 Mrs. Rohwer's talking about when she says, operations
17 and planning?

18 A. Yes.

19 Q. Okay. Who's the head of -- is that one
20 entity or is that separate? Is there an operations
21 department and a planning department or is that one
22 entity?

23 A. There are two different departments.

24 Q. Okay. Who's the head of operations?

25 A. I'm -- what time frame are you asking

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1 about?

2 Q. Currently.

3 A. Currently today, head of operations as in
4 a certain location or regional location or the VP?

5 Q. Well, the one that she's referring to
6 that's in Phoenix.

7 A. The terminal leader would be Kevin Vadnal
8 in Phoenix.

9 Q. Well, make sure I'm -- I'm clear, though.
10 She's referring to the company's administrative
11 functions, not the individual terminal. Are you
12 talking about a particular terminal or the overall
13 company?

14 A. I'm -- I'm -- I truly don't know exactly
15 what this was in reference to.

16 Q. Okay. How about the planning department?

17 A. I'm not sure who the head of planning is.

18 Q. Okay.

19 A. Or even if it's centralized.

20 Q. All right. The information that you
21 utilized to come up with the data that you provided
22 in Paragraph 9, or the conclusions in Paragraph 9, is
23 that information that is still available today that
24 you could retrieve? In other words, has anything
25 changed that would -- that would not allow you to do

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1 the same type of analysis today?

2 A. No.

3 Q. Okay. Were the -- were the numbers that
4 we reviewed in Paragraph 9, were those accurate at
5 the time that you provided that information to
6 Mrs. Rohwer?

7 A. Were they accurate at the time I provided
8 this? Yes.

9 Q. Yes. Yes. Do you have any reason to
10 suggest that they're not accurate today for that same
11 time period?

12 A. For the same time frame?

13 Q. Yes.

14 A. No.

15 Q. What is your understanding of Washington
16 State's requirements with regards to overtime pay for
17 truck drivers?

18 A. Understanding of the law or --

19 Q. Yes. What -- what's required to be paid
20 to truck drivers in Washington state with regards to
21 overtime pay?

22 A. In excess of 40 hours, overtime would be
23 required based on what their state law is.

24 Q. Okay. At any time that you -- when
25 you've been employed with Swift, are you aware of any

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1 overtime pay that has been paid to -- not hourly
2 employees, but truck drivers who are typically paid
3 by the -- by the mile?

4 MS. BRONCHETTI: Objection; vague and
5 ambiguous, calls for a legal conclusion. Do you
6 understand his question?

7 THE WITNESS: No.

8 BY MR. LANE:

9 Q. Okay. At any time since you've been
10 employed with Swift working in the payroll
11 department, have you -- do you have a specific
12 recollection of any documents which indicated that
13 Swift was paying their truck drivers overtime for
14 hours driven over 40 hours for the mileage-based
15 drivers?

16 A. For what time frame are you asking?

17 Q. Well, let's -- for any time frame and
18 then we can break it down. From -- from 2006 to the
19 present?

20 A. And the question was, am I aware of any
21 documents?

22 Q. Yes. That would indicate that Swift was
23 paying their mileage-based -- and by that, I mean,
24 truck drivers who were typically paid by the mile,
25 mileage rate. Are you aware of any documentation

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1 from 2006 to the present which would indicate that
2 Swift was paying those drivers, as a part of their
3 mileage rate, a component that accounted for overtime
4 for hours worked over 40?

5 MS. BRONCHETTI: And hold on. I'm going
6 to object to the extent it calls for attorney-client.
7 But you can answer to the extent you have independent
8 understanding.

9 THE WITNESS: The only -- I know there's
10 a document that was -- is -- I remember seeing a
11 form, an acknowledgment form, or something that would
12 talk about that, but I'm not aware of anything else.

13 BY MR. LANE:

14 Q. Okay. Prior to you being aware of or
15 reviewing the acknowledgment form, and I don't mean
16 that -- prior to your awareness of the acknowledgment
17 form, do you recall any conversations or any --
18 any -- any type of communication where you were a
19 party to it or that you heard where the issue of
20 paying mileage-based truck drivers overtime for hours
21 worked over 40 hours in a week in the state of
22 Washington?

23 MS. BRONCHETTI: Objection; compound.

24 BY MR. LANE:

25 Q. In your capacity in -- working in the

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1 payroll department?

2 MS. BRONCHETTI: Also I'm going to object
3 based on attorney-client privilege, so don't disclose
4 any conversations that you had with counsel.

5 THE WITNESS: Okay.

6 MS. BRONCHETTI: Do you understand his
7 question? Do you need to read it back?

8 THE WITNESS: No, he needs to answer --
9 ask it again.

10 MR. LANE: Okay.

11 MS. BRONCHETTI: It was a long question.

12 BY MR. LANE:

13 Q. I'll -- and we're going to look at the
14 acknowledgment form in a minute. But other -- aside
15 from the acknowledgment form, is there any other
16 communication, non-attorney communication where you
17 were made aware of, or even when you became aware
18 that there was an issue with regards to payment of
19 overtime to Washington-based or Washington-assigned
20 truck drivers for -- who were paid by the mile for
21 hours worked over 40 in the state of Washington?

22 A. I'm not aware of written communications,
23 just verbally have heard through the years that the
24 overtime rate for mileage -- drivers who work out of
25 the state of Washington that are assigned to a

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1 Washington location, that the -- the rate per mile
2 was inclusive of the overtime rate.

3 Q. Okay. And I -- and I need you to be as
4 specific as you can about where you heard that and
5 who you heard that from.

6 A. I remember hearing it from managers
7 that -- that had worked at Swift through the years,
8 but it was not a conversation that was directly told
9 towards me. It is just what I have heard.

10 Q. Well, can you be any more specific? What
11 were -- what was the context? What were the
12 circumstances where you were privy to those
13 communications?

14 A. I don't remember. It has been a long
15 time ago.

16 Q. Was there -- were there any situations
17 where the issue was being raised by a driver and
18 the -- the question was being addressed because of
19 some driver inquiries? Do you -- as you --

20 A. As I don't remember this, what the
21 situation was, I wouldn't know whether it was a
22 complaint from a driver.

23 Q. Okay. Well, when you're talking about
24 managers, who are you referring to? What -- what
25 managers?

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1 A. I can't even recall what the lady's name
2 is. She is no longer with Swift.

3 Q. Okay. It was a lady that you referred
4 to?

5 A. Yes.

6 Q. Okay. Do you remember -- well, she's no
7 longer with Swift. When was she with Swift?

8 A. It was in my early, early employment, so
9 I am not sure.

10 Q. So this would have been somewhere back
11 well in advance of -- or before 2006?

12 A. Yes.

13 Q. You started in 2000 and --

14 A. '1.

15 Q. '1. Would it have been in 2001 or --

16 A. I'm not sure.

17 Q. Okay. This lady, do you have a
18 recollection of the lady, whether you recall her name
19 or not, do you have --

20 A. No. As I said, it was in passing. It
21 was not in -- it was not a conversation directed
22 towards me.

23 Q. Okay. Do you remember who the
24 conversation was -- was directed at?

25 A. No, I don't.

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1 Q. Do you remember where it took place?

2 A. In our building on the third floor.

3 Q. In payroll?

4 A. Yes.

5 Q. Do you know what this lady, what her --
6 what department she was a manager in?

7 A. She was a payroll employee.

8 Q. Payroll employee. Was she a manager?
9 You said manager.

10 A. I believe so.

11 Q. Okay. Do you know if Ms. Rohwer was
12 present during this conversation?

13 A. I don't think so.

14 Q. Okay. Other than that conversation, do
15 you have any recollection at any other time prior to
16 this acknowledgment you referenced earlier where
17 the -- where the -- the subject was even discussed in
18 your presence?

19 A. The subject of?

20 Q. Paying overtime to mileage pay
21 Washington-positioned drivers.

22 A. No.

23 Q. Okay. Have you ever seen any notation on
24 the -- the system, the payroll system, the entire
25 time you've been at Swift which defined or delineated

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1 a portion of the mileage pay for
2 Washington-positioned drivers to account for overtime
3 pay?

4 A. What do you mean by notation?

5 Q. Well, any -- any -- well, I guess I'm
6 not -- I don't have your system in front of me, but
7 is there -- in your system, is there any component
8 that applies to Washington-positioned drivers that
9 describes or serves to somehow establish what part of
10 the mileage pay is intended to account for overtime?

11 A. You asked if there was a flag, right?

12 Q. Well, not necessarily a flag, but any --
13 well, whatever. Anything that you say is -- is
14 intended to designate a component of the mileage rate
15 as overtime pay?

16 A. No.

17 Q. Okay. Have you ever seen in the payroll
18 department, have you ever seen any calculations,
19 documents that -- that show any calculations for the
20 purpose of establishing a -- a component in the
21 mileage pay to drivers in Washington, as we've
22 defined that, to account for or to arrive at a factor
23 to account for overtime for those drivers?

24 MS. BRONCHETTI: Objection to the extent
25 it's calling for privileged information, and I'm also

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1 objecting that it's vague and ambiguous.

2 BY MR. LANE:

3 Q. Let me -- let me put a time frame on it.
4 Prior to this, to your knowledge of this
5 acknowledgment form, have you ever seen any documents
6 which show calculations intended to -- to determine
7 what factor, what component of the mileage rate of
8 pay paid to Washington drivers to account for
9 overtime?

10 MS. BRONCHETTI: Same objections. But
11 you can answer, to the extent you're not divulging
12 work product.

13 THE WITNESS: I am not sure.

14 BY MR. LANE:

15 Q. Let me ask you this way: Have you ever
16 participated in or done any calculations to arrive at
17 a factor in the mileage rate, an amount that in the
18 mileage rate is set aside to account for overtime for
19 drivers working out of Washington?

20 A. Yes.

21 Q. You have?

22 A. We do periodic audits for states. For
23 different states, we do audits to determine if a pay
24 rate is within the rate it needs to be. And there
25 has been a review of Washington mileage drivers that

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1 are paid a mileage rate to ensure that overtime was
2 built into the rate.

3 Q. Okay. Do you have any documentation of
4 that process?

5 A. No, I don't.

6 Q. Where would that be?

7 MS. BRONCHETTI: Objection.

8 BY MR. LANE:

9 Q. Where would that documentation be? Where
10 did it go?

11 MS. BRONCHETTI: You asked her --

12 BY MR. LANE:

13 Q. You said that -- that you participated in
14 doing those audits to determine --

15 A. We reviewed the system.

16 Q. Okay. Well, I guess what I need to know
17 is, when you said you -- you looked to see if -- if
18 the rates were competitive.

19 A. No, that's not what I said.

20 Q. Well, okay. Tell me again what you said.

21 MS. BRONCHETTI: Objection. You can --
22 no, you need to ask her a question. If you want to
23 review the transcript, you can do that, but she's not
24 here to repeat answers.

25 MR. LANE: All right. That -- that's

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1 fair enough. I'm not -- I'm not trying to make her
2 repeat verbatim what you said.

3 BY MR. LANE:

4 Q. I understood that you've said you did an
5 audit to determine how -- how -- how the rates
6 compared -- Swift's rates compared to other drivers
7 in -- with working with other companies?

8 A. That is not what I said.

9 Q. Okay. Well, you -- you mentioned
10 overtime, but I misunderstood how that was -- what
11 calculations were done as part of this audit to
12 address whether or not overtime was being paid in the
13 mileage rate? How did you -- how did you make a
14 determination that -- that overtime was being
15 accounted for in your mileage calculations, your
16 mileage rate calculations?

17 MS. BRONCHETTI: Objection. Which
18 question would you like her to answer? You just
19 asked her two.

20 BY MR. LANE:

21 Q. Well, answer the last one.

22 A. What was the last one?

23 Q. What calculations did you do as a part of
24 your audit to determine -- to determine what part of
25 the mileage rate that Swift was paying these

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1 Washington drivers included overtime?

2 A. Our review included identifying who is a
3 mileage -- a mileage-paid driver that worked in the
4 state of Washington that assigned -- was assigned to
5 a location in Washington. So that gets us our
6 drivers. We -- I don't remember the time frame that
7 was used. We pulled the pay information that was
8 paid during the time frame by pay period, the number
9 of miles driven by the driver, and then hours that
10 were logged on the driver's DOT log.

11 And using his work hours, which would be
12 on-duty driving hours and on-duty not driving hours,
13 so it's on-duty hours, did a calculation to determine
14 if the number of hours he was working divided by the
15 pay that he was paid for that pay week, what it did
16 include -- based on what the rate ended up being, did
17 it include the -- include an overtime rate.

18 Q. Well, how would you know if it included
19 an overtime -- aren't you just arriving at a -- a --
20 a -- an average pay per hour when you do that? You
21 said you take the total pay, divide it by the hours,
22 and that gives you a -- an average rate per hour,
23 correct?

24 A. Yes.

25 Q. Dollars per hour?

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1 A. I don't remember the exact formula, but
2 then that's why I pulled the miles, because we -- we
3 ended up being down to the rate per mile that ended
4 up being.

5 Q. Right. I guess what I'm trying to say
6 is, how are you determining whether or not -- what --
7 what is supposed to be overtime? How does that -- no
8 matter what number you come up with, how do you
9 determine whether or not it includes overtime?

10 Let's say -- let's say the number comes
11 up to be \$10 an hour for a driver. When you divide
12 the total pay by the number of hours -- and you could
13 arrive at the hours by taking, roughly taking the
14 number of miles driven in a week and divide that by
15 the average speed would give you the driving miles,
16 correct?

17 MS. BRONCHETTI: Objection;
18 argumentative.

19 BY MR. LANE:

20 Q. Per driving hours.

21 MS. BRONCHETTI: What is your question,
22 Joe? I mean, you're arguing with her and you're not
23 asking her a question.

24 MR. LANE: I'm -- I'm -- I'm trying to
25 get to a question. Thank you.

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1 BY MR. LANE:

2 Q. I'm trying to give you a situation. If
3 you arrive at \$10 an hour, how does that tell you
4 whether or not that includes overtime?

5 MS. BRONCHETTI: Objection; incomplete
6 hypothetical, vague and ambiguous, calls for a legal
7 conclusion.

8 BY MR. LANE:

9 Q. All I'm saying is this: You said you
10 take the pay and you divide it by the hours, and that
11 gives you the average pay per hour, correct?

12 A. I don't have the exact formula of what I
13 did. I don't have any of my documents here. There's
14 nothing I have that can tell you exactly what I did
15 that came up with the rate. I don't have any of that
16 information here. You just said to give you the
17 answer based on what I remember. That is what I
18 remember.

19 Q. And I -- I'm asking you based on what you
20 remember. If -- if you come up with \$15 an hour,
21 what -- is that a pay that, in your mind, says
22 there's -- there's overtime being paid?

23 MS. BRONCHETTI: Objection; calls for an
24 incomplete hypothetical, calls for a legal
25 conclusion.

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1 BY MR. LANE:

2 Q. What is it about the pay per hour that
3 tells you anything about the overtime component?

4 A. Your questions are very confusing, how
5 you're wording them.

6 Q. Well, I -- it's very important to me to
7 understand the process that you say you went through
8 to do this audit to determine whether or not overtime
9 was being accounted for.

10 A. I don't have my information with me. I
11 know we did an audit. We reviewed it because we do
12 periodic audits. I don't have my information with me
13 to know exactly what I did.

14 Q. How many times have you done --

15 A. You asked what I pulled, what information
16 I pulled.

17 Q. How many times have you done an audit
18 such as the one you just described?

19 MS. BRONCHETTI: Objection; vague and
20 ambiguous.

21 BY MR. LANE:

22 Q. The one you just described to me that you
23 said was done for the purpose of determining whether
24 or not the mileage rate includes overtime, how many
25 times have you done an audit such as that?

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1 A. For a specific state? A specific group
2 of drivers, like --

3 Q. Okay. Let's -- let's break it down since
4 you've asked that, that clarification. For
5 Washington drivers, Washington assigned drivers.

6 A. Me personally?

7 Q. You or anyone in your department.

8 A. I have only personally done a Washington
9 review for Washington drivers one time during my
10 employment at Swift.

11 Q. And when was that?

12 A. Approximately July or August of 2011.

13 Q. Do you know of anyone else who has done
14 that review that you described for me, to the extent
15 you described it, other than yourself for the purpose
16 of determining whether or not the Washington mileage
17 rates accounted for overtime?

18 MS. BRONCHETTI: Objection to the extent
19 it calls for attorney-client privilege information.

20 BY MR. LANE:

21 Q. In your department, is what I'm talking
22 about.

23 MS. BRONCHETTI: Same objection.

24 BY MR. LANE:

25 Q. Are you aware of anyone else in your

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1 department who has done that audit?

2 A. I'm not aware of anyone else.

3 Q. Okay.

4 A. I don't know what other people do.

5 Q. Okay. Have you done an audit to
6 determine if your -- if Swift's mileage rate includes
7 a -- an overtime component for any other state other
8 than Washington?

9 A. My understanding is there isn't another
10 state that requires Washington to be -- or overtime
11 to be included.

12 Q. Okay. So is the answer then, no, you
13 have not?

14 A. No, I have not.

15 Q. And are you aware of anyone else in your
16 department who has done that?

17 A. I wouldn't know that. Not that I'm aware
18 of.

19 Q. Okay. Did you generate a report as a
20 part of this audit that you conducted in July of
21 2011?

22 MS. BRONCHETTI: Objection to the extent
23 it calls for attorney-client privileged information.
24 You can answer to the extent you are not --

25 BY MR. LANE:

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1 Q. I'm not asking what would be in the
2 report or what you did with the report, I'm just
3 asking if you generated a report?

4 A. If I generated a report?

5 Q. Yes.

6 A. I don't remember if there was a report or
7 if it was reviewed on screens. I don't remember.

8 Q. Okay.

9 MS. BRONCHETTI: Joe, can we go off the
10 record for a minute?

11 MR. LANE: I beg your pardon?

12 MS. BRONCHETTI: Can we go off the record
13 for a minute?

14 MR. LANE: Yeah.

15 THE VIDEOGRAPHER: This marks the end of
16 Disk 1. Off record at 10:59 a.m.

17 (Recessed from 10:59 a.m. to 11:12 a.m.)

18 THE VIDEOGRAPHER: This is the start of
19 Disk 2 in the deposition of Sarah Koogle. Back on
20 record at 11:12 a.m.

21 MR. LANE: What were we talking about? I
22 forgot where I was. Sorry. Okay.

23 THE REPORTER: Oh, here, you can...

24 MR. LANE: Okay.

25 THE REPORTER: Generating a report, and

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1 before that...

2 MR. LANE: Okay.

3 THE REPORTER: This is her last answer.

4 BY MR. LANE:

5 Q. Okay. Mrs. Koogle, we were talking about
6 your -- your audit before we took a break.

7 A. Uh-huh.

8 Q. And you've indicated you're not aware of
9 any other audit that has been done in your department
10 for any other state, excluding Washington, correct, a
11 similar audit to determine whether or not your
12 mileage rates includes overtime?

13 A. I'm not aware of anything, no.

14 Q. Okay. And -- and you -- and the audit
15 that you mentioned, did you make any comparison
16 between mileage rates paid by Swift to their drivers
17 who were assigned to Washington positions versus
18 mileage rates paid to Swift drivers who were assigned
19 positions in any other state?

20 A. No.

21 Q. Okay. Are you aware of anyone who
22 performed such an analysis in the payroll department
23 for the purpose of addressing the overtime issue in
24 Washington?

25 MS. BRONCHETTI: Objection; vague, calls

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1 for a legal conclusion. You can answer to the extent
2 it does not include attorney-client communications.

3 THE WITNESS: Can you repeat -- repeat
4 what your question was?

5 BY MR. LANE:

6 Q. Yes. I was just asking you if you're
7 aware of anyone else in your department who conducted
8 an audit comparing Swift's mileage rates paid to
9 Washington positions versus Swift's mileage rate paid
10 to non-Washington positions in addressing the issue
11 of whether or not Washington mileage rates include a
12 component for overtime?

13 A. You're asking if I'm aware of a similar
14 audit that compares the two?

15 Q. Any other audit comparing rates, yes.

16 A. Somebody from -- no.

17 Q. Okay. Earlier, you were testifying about
18 this conversation that you -- where you overheard
19 this lady who you believe was a manager in the
20 payroll department mentioned something about the
21 mileage rates in Washington including overtime,
22 correct?

23 A. Yes.

24 Q. Prior to that time, did you have any
25 understanding or had you ever heard anything about

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1 whether or not Washington state mileage rates paid by
2 Swift to their Washington drivers included a
3 component for overtime?

4 A. No.

5 Q. Okay. Have you ever heard anything --
6 again, between the time that you heard this statement
7 made by this lady in the payroll department and the
8 acknowledgment form we're talking about, have you
9 heard any other conversations in the payroll
10 department, again, excluding communications with your
11 attorneys or your company's attorneys, where the --
12 the issue was raised concerning whether or not there
13 is overtime components in the mileage rates paid to
14 Washington drivers? And I'm excluding from that the
15 audit discussions that you had.

16 A. Not that I recall.

17 Q. Okay. Who instructed you to perform the
18 audit that you've -- that you've told us about?

19 A. I don't believe it was under instruction.
20 We just periodically do audits.

21 Q. Okay.

22 A. For different drivers and pay scales.

23 Q. All right. Let me make sure I understand
24 your testimony. You -- you -- did you tell me
25 earlier that you had never done an audit such as that

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1 for the purpose of determining whether or not the
2 mileage rate includes a component for overtime?

3 A. What was your question?

4 Q. Well, I understood that this was the only
5 audit that you had ever done for the purpose of
6 determining whether or not the mileage rate in
7 Washington state that -- paid by Swift to
8 Washington-positioned drivers includes a component
9 for overtime; is that your -- was that your statement
10 earlier?

11 A. Yes.

12 Q. Okay. And you're not aware of anyone
13 else who has done a similar audit before or since in
14 your department, correct?

15 A. That's correct.

16 Q. And so my question is: Why did you
17 conduct the audit for this purpose when you had never
18 done it before or since?

19 MS. BRONCHETTI: Objection; asked and
20 answered. You can answer. You've already answered
21 it, but you can answer it again.

22 THE WITNESS: It was just a review of
23 what the -- what the pay rate was to determine --
24 just we do periodic reviews based on state laws
25 changing and minimum wage rates changing at different

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1 times.

2 BY MR. LANE:

3 Q. Was there any --

4 A. It wasn't under direction.

5 Q. Okay. Was there any laws that changed,
6 that you're aware of, in, was it July of 2011, did
7 you tell me --

8 A. I'm not aware --

9 Q. -- when you did this audit?

10 A. -- of any, of laws that changed at that
11 time, no.

12 Q. Okay. Well, how was this audit any
13 different than the audits you mentioned that you
14 periodically do that weren't for the purpose of
15 evaluating overtime pay?

16 MS. BRONCHETTI: Objection; vague and
17 ambiguous.

18 THE WITNESS: That -- that's a very vague
19 question.

20 BY MR. LANE:

21 Q. Well, I'm trying to understand how this
22 audit was any different than the other audits that
23 you -- you say that you periodically do. How was
24 this audit different as far as the process is
25 concerned? How was the audit that you conducted in

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1 July of 2011 where you reached the conclusion that
2 the overtime -- that the mileage rates includes --
3 includes a component for overtime? How was that
4 different than the audits you did for any other state
5 at any other time?

6 MS. BRONCHETTI: Objection; vague.

7 THE WITNESS: It is. It's very vague.

8 BY MR. LANE:

9 Q. Well, was the process any different that
10 you used in the July of 2011 audit versus the -- the
11 other audits you said you periodically do?

12 A. It's -- it's different because we were
13 making sure that our mileage rate of pay was
14 inclusive of overtime.

15 Q. Okay.

16 A. So as I stated before, I'm not aware of
17 any other state that requires you to pay a
18 mileage-based employee overtime if they're paid by
19 the mile.

20 Q. Right.

21 A. So as I stated, I wouldn't have done that
22 same review in another state if the law does not
23 require it.

24 Q. Okay. Were you doing this because the
25 law required it, this audit you did in July of 2011?

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1 MS. BRONCHETTI: Objection; vague and
2 ambiguous.

3 BY MR. LANE:

4 Q. Was that your understanding?

5 MS. BRONCHETTI: Asked and answered.

6 THE WITNESS: It -- it was -- it was just
7 a review, an audit. A periodic review.

8 BY MR. LANE:

9 Q. Well, had you done periodic reviews --
10 and I know you've -- you've indicated this was the
11 only time you've ever done one for the purpose of
12 addressing the overtime question, correct?

13 MS. BRONCHETTI: Objection; asked and
14 answered eight times now.

15 MR. LANE: But that's the foundation for
16 my question.

17 BY MR. LANE:

18 Q. Was that a correct statement of your
19 testimony?

20 A. I've said that, like, three times.

21 Q. Okay. So have you ever done any reviews
22 in -- for Washington rates prior to this July 2011
23 one?

24 A. In regards to what? For overtime?

25 Q. Yeah -- no, not for overtime. For the

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1 same purpose that you testified you do it for other
2 states?

3 A. I don't remember if it was for Washington
4 or what other state.

5 Q. Okay.

6 MS. BRONCHETTI: Can we take a break for
7 a second?

8 THE VIDEOGRAPHER: Off record at 11:22
9 a.m.

10 (Recessed from 11:22 a.m. to 11:24 a.m.)

11 THE VIDEOGRAPHER: Back on record at
12 11:24 a.m.

13 BY MR. LANE:

14 Q. Mrs. Koogle, before you -- you took a
15 break, we were -- we were talking about the audits.
16 I -- I want to move on to a different subject, at
17 least for now. We may -- we may stumble back into
18 that again, but I want to ask you about, we were
19 talking about these positions earlier, Washington
20 positions. I just want to make sure I understand the
21 process. Is -- is there a specific position for each
22 terminal that Swift operates out of in Washington
23 state? Is there a specific code for that position?

24 A. A -- a position code, yes.

25 Q. Yes. Are there multiple positions for

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1 one terminal?

2 A. Absolutely.

3 Q. Okay. How many terminals are you aware
4 of that are assigned position codes in the state of
5 Washington?

6 A. Terminals, Grandview and Sumner. Sumner,
7 Seattle.

8 Q. Grandview, Sumner?

9 A. It's -- it -- during the time frame of
10 the case --

11 Q. Yes.

12 A. -- there was Seattle and now it's Sumner.

13 Q. Okay.

14 A. So it's --

15 Q. Okay. Let me -- let me back up, then,
16 because I do want to put it in -- in time frames.
17 From July of 2008, what were -- at that point in
18 time, what were the terminals that Swift operated out
19 of in Washington state?

20 A. During 2000 -- July of 2008 through
21 present?

22 Q. Well, at -- at that time, how many were
23 there?

24 A. I don't know for sure if Sumner and
25 Seattle were at the same time, during -- at that --

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1 at that time.

2 Q. Okay. So it would have been Grandview
3 for sure?

4 A. Yes.

5 Q. And Sumner and/or Seattle?

6 A. Yes.

7 Q. Okay. Was there a time when both Seattle
8 and Sumner were both terminals being operated out of?

9 A. I -- I believe so.

10 Q. Okay. Do you know when Seattle ceased
11 being a terminal that -- well, I take it from your --
12 your statement, that Seattle is -- is no longer a
13 terminal that Swift operates out of?

14 A. It's no longer an active terminal in our
15 system.

16 Q. Okay. Meaning there aren't any drivers
17 assigned to that --

18 A. That's correct.

19 Q. -- terminal, correct?

20 A. That's correct.

21 Q. Okay. How long has that been the case?

22 A. I'm not real sure.

23 Q. Okay. Well, can -- best -- it's been
24 over a year?

25 A. I don't know because I don't move the

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1 drivers out of -- I'm not responsible for making sure
2 the driver's assigned to the right location.

3 Q. Okay.

4 A. So I don't do a review of whether or not
5 they're still assigned to Seattle.

6 Q. Okay. And I was going to get to these
7 questions later, but since you mentioned it, the
8 assignment of a home terminal or -- or a position,
9 Washington position, who does that?

10 A. Terminal leaders, driver leaders, fleet
11 leaders. I'm not real sure of all areas that have
12 direction in that. I'm -- I'm not sure in the
13 beginning when they're oriented or they go through
14 orientation where they're -- how it's determined
15 where they're -- where they'll be assigned.

16 Q. Okay. And that's what I wanted to ask
17 you. Is -- is there any relationship, that you're
18 aware of, between the location for the orientation
19 and the terminals that the drivers are assigned to?

20 A. I wouldn't be aware of that. I wouldn't
21 know.

22 Q. Okay. Now, currently, have there been
23 any other terminals, that you're aware of, going back
24 to July of 2008 in Washington that had Swift drivers
25 assigned to them other than Grandview, Sumner, and

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1 Seattle?

2 A. They -- there very well could have been.
3 Those are the only three that I'm aware of.

4 Q. Okay. Now, do you know -- well, we're
5 going to look at some documents. I'm not sure if --
6 if -- if they'll be all-inclusive, but do you know
7 how many positions existed at the Grandview terminal
8 going back to July of 2008?

9 A. I don't know.

10 Q. Okay. How about Sumner?

11 A. I would not know.

12 Q. Okay. Do you know where the orientation
13 sites are in Washington?

14 A. I do not.

15 Q. Okay. And just so I'm clear, you know
16 nothing about the orientation process?

17 A. I do not.

18 Q. Okay. All right. Before we start
19 looking at some of these payroll documents that are
20 confusing to me, I want to just cover the issue of --
21 if I can find my documents. Hang on. Sorry.

22 A. I'm going to -- can I grab my jacket
23 while he does that?

24 Q. Sure. Well -- oh, here we go.

25 You understand the -- the claims in

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1 this -- in this case involve claims associated with
2 the per diem program?

3 A. I've -- yeah, I read that in the
4 document.

5 Q. Okay. And also claims associated with
6 the orientation program, correct?

7 A. Yes.

8 Q. Okay.

9 A. They were also in the document.

10 Q. On-the-job training pay issues as well?

11 A. Uh-huh.

12 Q. And also the overtime associated with the
13 mileage, right? Correct?

14 A. Yes.

15 Q. All right. I just want to cover some
16 things and see what the extent of your knowledge is.
17 Do you have -- do you have any involvement in the
18 development of the per diem program from a policy
19 standpoint? Did you have any input in that?

20 A. No, I did not.

21 Q. Are you familiar with that process?

22 A. I know how the process works. Sorry. I
23 know how the process works. That is all I know.

24 Q. Okay. Are you aware that there was a
25 modification of the -- of the policy back in May of

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1 2012?

2 A. No. May of 2012?

3 Q. Yes.

4 A. No.

5 Q. Well, we marked this yesterday, but I'm
6 just -- just so you -- you know where I'm coming
7 from, I just want to show you this, and we can mark
8 it, if you -- if we need to, but just take a look at
9 that. You see the revised date down at the bottom?

10 MS. BRONCHETTI: Do you have a copy?

11 MR. LANE: I do.

12 MS. BRONCHETTI: Thank you.

13 MR. LANE: Sorry.

14 MS. BRONCHETTI: That's okay.

15 BY MR. LANE:

16 Q. Do you -- do you see where I'm talking
17 about?

18 A. I see --

19 Q. Just the revised date. Do you know
20 anything about that?

21 A. No.

22 Q. Okay.

23 A. I wouldn't know what was changed on it.

24 Q. Okay. Did -- do you know of any changes
25 to the -- to the policies since July of 2008 in the

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1 per diem policy?

2 A. No. Changes to the policy?

3 Q. Yeah.

4 A. No.

5 Q. Who -- what depart- --

6 MS. BRONCHETTI: Do you -- I'm sorry.

7 MR. LANE: That's fine. I didn't mark
8 it. We marked it yesterday.

9 MS. BRONCHETTI: Okay.

10 BY MR. LANE:

11 Q. In your -- in your job, in payroll, have
12 you had to ask -- answer questions to any drivers
13 about the per diem program?

14 A. No.

15 Q. Okay. Who would -- who would be -- well,
16 what department would be in charge of answering
17 questions about the per diem program?

18 A. It depends on what the questions would
19 be, but our payroll customer service area would
20 answer questions, and possibly our payroll tax people
21 would answer questions. I'm not real sure of any
22 questions we get.

23 Q. Okay. Do you know what percentage of
24 drivers, going back to July of 2008, who were
25 assigned to Washington positions, participated in the

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1 per diem program?

2 A. At any one time or in total?

3 Q. Well, however you can provide it to me.

4 Total number or -- or a percentage of the total
5 number of Washington assigned drivers. Whatever way
6 you -- you've got the information is fine with me.

7 A. Approximately 30 at any one time.

8 Q. Thirty?

9 A. Thirty employees.

10 Q. Thirty employees at any given time?

11 A. Well, 30 -- 30 driving employees,
12 approximately.

13 Q. Thirty driving employees in the entire
14 state of Washington going back to -- well, I'm going
15 to break it down. Just at any given time, going back
16 to July 18th or July of 2008, approximately 30
17 employees would be participating in the program out
18 of Washington?

19 A. For -- for mileage-paid drivers assigned
20 to Washington.

21 Q. Right. And the -- and the program is
22 only available to mileage-paid drivers, correct?

23 A. That's correct.

24 Q. Now, how often -- what is the rate of
25 turnover of employees going back to July of 2008?

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1 A. I have no idea.

2 Q. Okay. Going back to July of 2008, were
3 drivers -- new employees coming on who were paid by
4 the mile, were they automatically entered into the
5 per diem program going back to July of 2008?

6 A. Not that I'm aware of.

7 Q. Okay. Do you know one way or the other?

8 A. No.

9 Q. You don't? Okay. So as new -- as new
10 drivers -- well, I believe I read something earlier
11 about the number of -- of drivers who left from
12 Mrs. Rohwer's declaration. 700 and something drivers
13 left over the three years preceding the -- the filing
14 of this Complaint. Do you remember that?

15 A. I don't remember what the number was.

16 Q. Assuming it's 700 -- well, we can look at
17 it, if we need to. But assuming it's 700 and
18 something, does that tell you anything about the rate
19 of turnover of drivers in --

20 A. No.

21 Q. In Washington?

22 A. No.

23 Q. Okay. Do you have an understanding as to
24 the average length of time that drivers -- and I know
25 there's going to be outliers either way, but the

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1 average length of time that drivers working out of
2 the Washington positions stay -- or stay with Swift,
3 drive for Swift?

4 A. No.

5 Q. Have you ever been asked to prep- -- to
6 do analysis of that to determine what your turnover
7 rate is?

8 A. No.

9 Q. You have not?

10 A. No.

11 Q. Do you know of anyone in payroll who does
12 do that?

13 A. Not in payroll.

14 Q. Okay. Would that be someone in human
15 resources or personnel?

16 A. They -- they may.

17 Q. Okay. I'm sorry. I'm just ruling out
18 some things here. Just bear with me.

19 A. Okay.

20 Q. Sorry.

21 What is your understanding of the way in
22 which the per diem program works?

23 MS. BRONCHETTI: Objection; asked and
24 answered.

25 BY MR. LANE:

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1 Q. The actual -- the actual way that the --
2 the -- the -- the payments are made and what's --
3 what happens to the mileage rate for -- for
4 individuals who participate in the per diem pro- --
5 program?

6 A. They're -- it -- it varies based on the
7 type of driver that they are.

8 Q. How does it vary?

9 A. If you're a team driver, I know the rates
10 vary, if you're teaming with another mileage driver.

11 Q. Uh-huh.

12 A. Or the -- the -- or if you're a solo
13 driver.

14 Q. Okay. Between those two categories, how
15 does it work for a solo driver?

16 A. For a solo driver, the rate -- the rate
17 per mile is reduced 10 cents per mile, and then
18 there's a reimbursable pretax amount that they're not
19 taxed on at 8 and a half cents.

20 Q. Okay. Do you know what happens to the
21 other cent and a half?

22 A. No, I didn't write the policy.

23 Q. Okay. Well, is it -- and for the team,
24 how does it work for the team drivers?

25 A. I don't know the exact figures, but I

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1 believe it reduces it -- it reduces it at five cents
2 taxable and reimburses at four and a quarter, I
3 think, nontaxable.

4 Q. Okay. Basically just halves everything,
5 correct?

6 A. Yes.

7 Q. Okay. Does your system, your -- your
8 payroll system keep up with the per diem
9 disbursements?

10 A. What do you mean by disbursements?

11 Q. Is there a record of -- for any driver
12 participating in the per diem program, is there a
13 record going back to July of 2008 that would reflect
14 payments for -- as a part of the per diem program, as
15 well as other payroll payments?

16 A. Yes.

17 Q. Okay. And that -- that applies to all
18 the Washington drivers going back to July of 2008?

19 A. If they were enrolled, yes.

20 Q. Okay. Do you know if that program is
21 still offered to the Washington drivers, drivers who
22 were positioned in Washington?

23 A. No, it's not.

24 Q. It is not. When did that change?

25 A. I don't remember the exact date. It was

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1 in 2011.

2 Q. Okay. Do -- do you --

3 A. The end -- end of 2011.

4 Q. And do you know why that changed?

5 A. I don't know why. I wasn't part of the
6 decision.

7 Q. All right. Do you know of any other
8 state where that program is no longer offered to
9 drivers positioned in those states?

10 A. If the per diem is offered?

11 Q. Yes. Do you know of any other state
12 where it's no longer offered as a -- a -- an option
13 to Swift employee drivers assigned to those states?

14 A. No.

15 Q. So to your knowledge, is it -- is it
16 still offered in every other state?

17 A. Yes.

18 Q. Okay. Was there any changes to the
19 system that had to be made -- and by the system, I
20 mean your payroll system -- to adjust for that change
21 in the policy, the per diem policy?

22 A. On who's eligible or what?

23 Q. On -- just was there anything that had to
24 be programmed into the system to account for the fact
25 that the policy or the -- the program is no longer

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1 offered to Washington assigned drivers?

2 A. Yes.

3 Q. Okay. How was that done? I mean,
4 what -- what was done?

5 A. There was a program that was put in place
6 that based on the driver's terminal code that they're
7 assigned to that we talked about earlier, if it's
8 those three terminal codes, Grandview, Sumner,
9 Seattle, that they're automatically excluded. They
10 can't opt in. They're just not part of the program
11 anymore.

12 Q. Okay. Okay. Did notice go out to all of
13 the drivers advising them of the change in the
14 policy?

15 A. I'm not sure.

16 Q. You don't know?

17 A. I wouldn't have been involved in that.

18 Q. You wouldn't have been involved in that?

19 A. No.

20 Q. Okay. Let's do this, let's see. Okay.
21 We're about to dig into some of these payroll
22 documents, and I was trying to clear out some stuff
23 before we got to that because I know that's going to
24 get bogged down, so bear with me.

25 MR. LANE: Tell you what, before we get

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1 bogged down in this, let's talk -- let's go off the
2 record.

3 THE VIDEOGRAPHER: Off -- off record at
4 11:46 a.m.

5 (Discussion off the record.)

6 THE VIDEOGRAPHER: Back on record at
7 12:28.

8 BY MR. LANE:

9 Q. Mrs. Koogle, I want to go back to a
10 previous topic just to clarify a couple things. I
11 was asking you earlier about the number of Washington
12 assigned drivers participating in the per diem
13 program going back to July of 2008 to the present,
14 correct?

15 A. Yes.

16 Q. And I believe, and this is just for
17 foundational purposes, correct me if I'm wrong,
18 you -- you indicated that at any given time, there
19 were about 30 of those drivers who were part- -- were
20 participating in the program?

21 A. Yes, at any given time.

22 Q. At any given time. My -- my follow-up
23 question to that is: Over that whole period of time,
24 from July of 2008 to the -- to the present,
25 approximately how many different drivers assigned to

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1 Washington positions participated in the per diem
2 program?

3 A. I've never looked. I wouldn't know.

4 Q. Okay. Is that something you could search
5 for in your system to determine that?

6 A. Yes.

7 Q. Okay. Do you know of anyone else in the
8 payroll department who has actually done a -- a
9 search to arrive at that information?

10 A. To identify who all has been --

11 Q. Participate in the per diem program that
12 were Washington assigned drivers going back to July
13 of 2008?

14 A. Not that I'm aware of, no.

15 Q. Okay. Another follow-up question to that
16 per diem program, you describe the per diem program
17 to me and distinguish between team drivers and solo
18 drivers, correct?

19 A. That's correct.

20 Q. Other than that distinction, is the
21 program implemented the same for each of those two
22 categories? In other words, if you're a solo driver,
23 if you're participating in the program, is it 10
24 cents deducted from your mileage rate, 8 and a half
25 cents paid back, or are there -- or is there any

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1 variance, that you're aware of, for solo drivers if
2 you're participating in the per diem program?

3 A. No, there's no variance.

4 Q. No variance. Treated -- everybody's
5 treated the same if you're participating, correct?

6 A. For the per diem rates, yes.

7 Q. Yes. Yes. In other words, the mileage
8 rates may be different, but the -- but the 10 cent
9 deduction is the same for every driver, the 8 and a
10 half cents paid back is the same for each solo
11 driver, correct?

12 A. That's correct.

13 Q. And for the team driver, it would be
14 exactly same, just halved, correct?

15 A. That's correct.

16 Q. All right. I also want to clarify, or at
17 least ask a follow-up question concerning the -- the
18 Paragraph 9 of Exhibit 4 to your deposition. And
19 I -- I think I forgot to ask you, so I thought I'd
20 ask you now, and it may be repetitive, and I
21 apologize if I -- if I already asked this question,
22 but in that first sentence of Paragraph 9, and,
23 again, just for foundation, I'll read it.

24 "Based on a compilation of corporate data
25 and records available at this time, which I obtained

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1 and reviewed, and which is located in Phoenix,
2 Arizona, I estimate that there are approximately 1319
3 employee drivers who have worked for Swift in
4 Washington in the four years prior to the filing of
5 the Amended Complaint." Now, that's Ms. Rohwer's
6 statement, of course, but you provided the
7 information, correct?

8 A. I believe I did, yes.

9 Q. Okay. Now, is it your understanding,
10 based on the research you did, were all of those 1319
11 employee drivers, drivers who were assigned
12 Washington positions?

13 A. Who at some point during the time frame
14 that it was requested from me was assigned to a
15 Washington position.

16 Q. Okay. And as a Washington -- a
17 Washington position assigned driver, is it your
18 understanding that it's Swift's policy that those
19 drivers would be entitled to that component in the
20 mileage rate to account for overtime; is that your
21 understanding?

22 A. For mileage-paid drivers?

23 Q. Yes.

24 A. And, yes.

25 Q. Okay. Okay. Again, I may have covered

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1 that. I just wasn't sure, so I wanted to clarify
2 that.

3 (Exhibit 5 was marked for identification.)

4 MR. LANE: We've marked this a number of
5 times in previous depositions, but I want to give you
6 your own copy here, so...

7 THE WITNESS: Okay.

8 MR. LANE: Do you need another copy of
9 this?

10 MS. BRONCHETTI: Uh-huh.

11 MR. LANE: Okay.

12 MS. BRONCHETTI: Please.

13 MR. LANE: You can certainly have one,
14 but...

15 BY MR. LANE:

16 Q. Let me show you what I've marked as
17 Exhibit No. 7 (sic), Mrs. Koogle, and ask you to tell
18 me if you recognize what that document is.

19 A. Yes, I've seen this before.

20 Q. Okay. Did you review that in preparation
21 for your deposition?

22 MS. BRONCHETTI: Objection; asked and
23 answered. She said she didn't review no documents in
24 preparation on her own. So what you're asking her is
25 to disclose attorney work product, and I will not

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1 allow her to do that.

2 BY MR. LANE:

3 Q. Okay. Well, when have you seen this
4 document?

5 A. When have I seen the document?

6 Q. Yes.

7 A. When it --

8 Q. You said you -- you recognize the
9 document. How do you recognize the document?

10 A. I saw the document when it was originally
11 sent out sometime in 2011. I'm not sure when it was.

12 Q. Okay. Do you see down in the bottom
13 left-hand corner where it says, "Rate Acknowledgment
14 Form 09/01/11"?

15 A. Yes.

16 Q. Okay. Is that about the time that you
17 recall this document, give or take, when that
18 document was sent out, as you put it?

19 A. I'm not real sure, but, yes, it was in
20 2011.

21 Q. Okay.

22 A. In the end of 2011.

23 Q. Okay. Is -- is it your understanding,
24 and I'm asking -- well, I'm asking individually right
25 now, is it your understanding that this is the Swift

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1 policy with regards to overtime payments to
2 Washington assigned drivers who were paid by the
3 mile?

4 MS. BRONCHETTI: Objection; vague and
5 ambiguous.

6 THE WITNESS: I mean, it's not a -- it's
7 not a policy. It says it's an acknowledgment form.

8 BY MR. LANE:

9 Q. Okay. Well, what is -- well, if you
10 don't like what's here, tell me what your
11 understanding of Washington -- of Swift's policy with
12 regards to payment of overtime for Washington
13 assigned attorneys (sic) who are paid by the mile.

14 A. The -- the -- my understanding is the
15 overtime rate is included in -- it's inclusive in
16 their rate per mile for Washington employees.

17 Q. Okay.

18 A. Washington driving employees.

19 Q. Let me read the -- the acknowledgment
20 that -- that I've handed you. Starting from the top,
21 this is on Swift letterhead, correct?

22 A. Yes.

23 Q. Okay. And it's entitled, "Acknowledgment
24 of Rate of Pay for Washington Based Driving
25 Employees." Do you see that?

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1 A. Yes, I do.

2 Q. All right. Do you -- well, what is your
3 understanding of what is meant by Washington-based
4 driving employees in that statement?

5 MS. BRONCHETTI: Objection. She can't
6 answer that question. It's -- she lacks -- it lacks
7 foundation. She already testified that she didn't
8 write it, so you're calling -- you're asking her to
9 speculate as to what the -- the drafter of this
10 document intended. So she can't answer that
11 question.

12 BY MR. LANE:

13 Q. Okay. Item No. 3 of the 30(b)(5) --
14 30(b)(6) notice says that you will provide testimony
15 and documents pertaining to, describing, and/or
16 evidencing all mileage rates paid by Swift to
17 Washington-based drivers, and all documents
18 evidencing all mileage rates paid by Swift to its
19 drivers elsewhere as those terms are intended in the
20 acknowledgment attached as Exhibit 8 going back to
21 March of 2006. Do you -- do you remember reviewing
22 that?

23 MS. BRONCHETTI: Right, Joe. And what we
24 identified her to, what we specifically identified
25 her to is that she cannot testify as to the intention

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1 of this document. She is here today to talk about
2 mileage rates paid by Wash- -- Swift to
3 Washington-based drivers and mileage rates paid to
4 Swift drivers elsewhere. Her designation has nothing
5 to do with this acknowledgment form. She didn't
6 create it.

7 MR. LANE: Well, I'm asking for whoever
8 is going to be put up -- well, who's going to be put
9 up to address what's on this acknowledgment?

10 MS. BRONCHETTI: I can talk to you after
11 the deposition.

12 MR. LANE: Okay.

13 MS. BRONCHETTI: I'll be happy to.

14 BY MR. LANE:

15 Q. So when you reviewed this before, when
16 you -- when you reviewed this, when you said you saw
17 it around sometime in 2011, when it was being sent
18 out, did you read it at that time?

19 A. Yes.

20 Q. Did you have any disagreement yourself
21 individually as you understood how the -- as you've
22 described the policy for Swift for overtime for
23 mileage-paid drivers assigned to Washington, did you
24 have any objection to what you read as far as the
25 acknowledgment?

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1 A. No.

2 Q. Okay. And as you sit here today, do you
3 have any disagreement with the acknowledgment as it's
4 drafted, and as -- as far as your understanding of
5 how the overtime works?

6 A. Do I have a disagreement on that?

7 Q. Yeah, do you disagree with anything that
8 is stated here, as you understand it?

9 A. As I understand it, no.

10 Q. Okay. In your work in payroll, when this
11 thing was being distributed, did you have an
12 understanding of to who this was to be distributed
13 to?

14 A. No.

15 Q. You did not? Okay. Since this document
16 has gone out sometime in 2011, I assume after
17 September 1st, have you been aware of these
18 acknowledgement forms being returned to the payroll
19 department from drivers?

20 A. I have no idea where they were returned
21 to --

22 Q. You do not?

23 A. -- or what the direction was.

24 Q. Okay. You're not aware of them being
25 accumulated and stored in the payroll department?

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1 A. I -- well, I wouldn't know. I wouldn't
2 know whether or not they are in our payroll
3 department.

4 Q. I'm sorry, you would or would not?

5 A. I would not know.

6 Q. Okay. Do you know of anyone at Swift who
7 participated in, and I'm using the -- a version of
8 the word in the acknowledgment, built overtime into
9 the mileage rates paid to Washington assigned
10 drivers?

11 A. What was your question?

12 Q. Are you aware of anyone at Swift who
13 participated in the process of building overtime into
14 the rates, the mileage rates paid to the Washington
15 assigned attorneys (sic)?

16 A. Washington assigned drivers?

17 Q. I'm sorry. Yes, drivers.

18 A. No.

19 Q. Okay. Now, we talked about -- well, do
20 you have an understanding as to what is meant by
21 Washington-based drivers as it is -- as it's shown in
22 this document? In other words, is it -- is that --
23 is it your understanding that is -- that would be the
24 Washington-assigned drivers?

25 MS. BRONCHETTI: Objection; calls for

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1 speculation, lacks foundation. She didn't write the
2 document.

3 MR. LANE: No, I understand.

4 BY MR. LANE:

5 Q. I'm asking specifically, do you
6 understand -- what is your understanding as a payroll
7 person at Swift of the term "Washington-based
8 driver"?

9 MS. BRONCHETTI: Objection; asked and
10 answered. Joe, she -- she testified to this at the
11 beginning of her deposition, and she -- she testified
12 very clearly of what her understanding is.

13 MR. LANE: I'm -- look, I'm just trying
14 to get to -- I want to understand whether or not you
15 distinguish between this term "Washington-based
16 drivers" and "Washington-assigned drivers"?

17 MS. BRONCHETTI: But -- but she didn't
18 write the document.

19 MR. LANE: I'm not asking if she wrote
20 the document. I'm asking what does the term
21 "Washington-based" -- forget about the document.

22 BY MR. LANE:

23 Q. Washington-based drivers, as you
24 understand that, as an employee at Swift working as a
25 supervisor in the payroll department, is that -- is

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1 your understanding that that is a Washington-assigned
2 attorney (sic)?

3 A. Driver?

4 Q. I'm sorry, driver. I don't know why I
5 keep saying that.

6 MS. BRONCHETTI: Answer again. Just
7 answer again.

8 THE WITNESS: My understanding is
9 Washington-assigned drivers, Washington-based drivers
10 are drivers who are in a position that is assigned to
11 a Washington terminal location or on-site location.

12 BY MR. LANE:

13 Q. Okay. That's all I'm asking. And -- and
14 what I want to know, is there -- is there any other
15 driver outside of that category you just listed that
16 you would consider a Washington-based driver?

17 A. Outside of what I listed, no.

18 Q. No. Okay. All right. I just want to
19 make sure that we're not leaving anybody out in
20 the -- in the term that we're talking about.

21 A. Okay.

22 Q. Okay. And you've already stated that
23 you -- you don't know how these drivers were assigned
24 those positions, correct?

25 A. I am not involved in that.

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1 Q. Okay. I tell you what I'm going to do,
2 try to pull out an example here to start with.

3 MR. LANE: That copy looks a little
4 blurry. Was the last one four?

5 MS. BRONCHETTI: Seven.

6 MR. LANE: I marked it wrong.

7 MS. BRONCHETTI: I know. I was wondering
8 why you marked it seven, but, hey.

9 MR. LANE: I pulled this sticker off the
10 wrong spot.

11 THE REPORTER: Oh, we can make a new one.
12 Do you want to make that one five?

13 MR. LANE: Yeah, make that one five.
14 Well, here you go. Yeah, there you go. Put five on
15 that one.

16 MS. BRONCHETTI: We'll make this seven?

17 MR. LANE: Yeah, and we'll clarify it on
18 the record. Thank you.

19 For the record, we mislabeled the
20 acknowledgment form as Exhibit No. 7. We've
21 relabeled that Exhibit No. 5. Now we'll get back on
22 track.

23 (Exhibit 6 was marked for identification.)

24 BY MR. LANE:

25 Q. Let me show you what I've marked as

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1 Exhibit No. 6, Mrs. Koogle, to your deposition.

2 MS. BRONCHETTI: Thank you.

3 THE WITNESS: Okay. Thanks.

4 BY MR. LANE:

5 Q. And that's a collective document. It's
6 got probably a grouping that may -- may not be
7 logical, but we'll -- we'll go through it as
8 documents reflecting payroll information about
9 Mr. Troy Slack. Can you confirm that for me?

10 A. Yes.

11 Q. Okay. Now, Mr. Slack is a plaintiff in
12 this case. Are you aware of that?

13 A. Yes, I am.

14 Q. Okay. Have you researched all of the --
15 the plaintiffs in this case for the purposes of
16 providing payroll information about them?

17 MS. BRONCHETTI: Objection; vague.

18 BY MR. LANE:

19 Q. Did you participate in that? In other
20 words, did you participate in generating these
21 documents?

22 A. Yes, I participated in generating.

23 Q. Okay. That's -- now, the -- the first
24 page, at least, and these are sequentially numbered.
25 Let's make sure it's sequential. I believe they're

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1 sequentially numbered D010194 through D010201; is
2 that correct?

3 A. That's correct.

4 Q. Okay. What I'm going to do -- now, I
5 tried to get in my head a way of organizing it so I
6 can understand how the structure works in Washington.
7 As I understand it, you've got a position that
8 drivers can be assigned to in Washington, correct?

9 A. Yes, that's correct.

10 Q. All right. And there are multiple
11 positions that they can be assigned to, correct?

12 A. Numerous, yes.

13 Q. Okay. And within that assignment, a
14 driver can be assigned a pay matrix as well, correct?

15 A. That's correct.

16 Q. Okay. Do I -- I have at least that part
17 of the understanding down?

18 A. Yes.

19 Q. Okay. And then what comes after --
20 what -- is -- is there differences, then, within
21 those pay matrices for each driver?

22 A. Differences being?

23 Q. Differences in if they're assigned a
24 particular position in Washington and then they're
25 assigned a particular pay matrix for any given

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1 experience level, are there differences in the pay
2 between drivers? Or if they're all -- if they have
3 the same experience level and the same pay matrix,
4 are they basically paid the same for any given
5 position?

6 A. No, there -- there is numerous
7 combinations.

8 Q. Okay. And hopefully we can get
9 through -- through that. But the -- but the -- where
10 we start is the assignment and then below that, the
11 pay matrix?

12 A. In regards to pay, yes.

13 Q. Yes. Okay. Looking at Exhibit No. 6, I
14 want to just go through some of this and get the
15 terminology down. What is this first page we're
16 looking at, D010194?

17 A. This is -- this is what we refer to as a
18 rate history screen. It shows -- I'm sorry, a rate
19 history screen.

20 Q. Rate history screen. Okay. And this is
21 a screen that was printed off your payroll system?

22 A. Yes.

23 Q. How long has this payroll system existed?

24 A. I've only been there since 2001, but it
25 was there when I was --

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1 Q. Okay.

2 A. When I was hired.

3 Q. All right. So at least going back to
4 July of 2008, correct?

5 A. Yes.

6 Q. All right. Now, we've got a number of
7 fields here, and I want to see if we can identify
8 what these are. And on the top left-hand corner,
9 there's an "ROSAVA." What is that?

10 A. That's a user I.D. of a user, like, I
11 have my own specific user I.D.

12 Q. That's somewhere in the payroll
13 department?

14 A. Yes.

15 Q. Okay. And -- and what would result in
16 that appearing in the top left-hand corner?

17 A. She's the one that printed this page.

18 Q. Okay. And beside that to the right of
19 that user code -- well, there actually appears to be
20 two lines there. There's a Rosa -- "ROSAVA" and a
21 "ROSAV," just to be -- what -- why are there two?

22 A. It's -- it's her user I.D. and you can
23 have multiple sessions up on the screen, so there's a
24 Session A, a Session B, a Session C. So it just puts
25 your user I.D. and then the session number of which

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1 one she printed it off of on this day --

2 Q. Okay.

3 A. -- when she printed the document.

4 Q. All right. Right next to that, there's
5 a -- another set of letters, "DPSTAT." What is that?

6 A. That's the program that holds this data.

7 Q. Okay.

8 A. That's the name of the program.

9 Q. Okay. Do you know what that stands for?

10 A. No, I don't.

11 Q. Okay. Well, I've heard the description
12 "driver payroll status," and actually, I see a -- a
13 line there, it says, "Driver payroll status changes."
14 Is it -- would that -- would that possibly be an
15 explanation for that acronym, DPSTAT?

16 A. I'm -- I guess.

17 Q. You -- you just don't know?

18 A. I don't know.

19 Q. You didn't -- you didn't -- has anyone
20 in -- in the office said that or is that something
21 that's done by IT?

22 A. That's IT.

23 Q. Okay. And we just read that the title of
24 the -- of the page, "Swift Transportation Driver
25 Payroll Status Changes." And you -- you described

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1 that earlier, correct?

2 A. Yes.

3 Q. Now, to the right, there's a date,
4 "6/20/2012." What does that date represent?

5 A. The date she printed it.

6 Q. Okay. And --

7 A. And time.

8 Q. And the time right below it, correct?

9 A. Correct.

10 Q. Then we've got a driver code, "144250,"
11 and that's Mr. Slack's employee code --

12 A. Yes.

13 Q. -- or driver code?

14 A. Yes.

15 Q. Okay. And his name?

16 A. And his name.

17 Q. All right. Now, below that we have two
18 lines. The first line has a field that apparently is
19 labeled "S." What does that stand for?

20 A. I don't know what it stands for.

21 Q. Okay. Below that, it has "No" and
22 "Trne." Do you know what those stand for?

23 A. I believe it's saying sequence number,
24 that's what the "S" is for --

25 Q. Okay.

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1 A. -- because they're in order by number.

2 Q. I got you.

3 A. And then Tre- -- ne is whether or not he
4 was a trainee or student.

5 Q. Okay.

6 A. They mean the same thing --

7 Q. Okay.

8 A. -- at the time this record was recorded
9 on here.

10 Q. Okay. Keep going to the right. "Class."
11 What is that?

12 A. It's a -- a pay classification in the
13 system that tells us whether or not he's hourly,
14 salary, or mileage.

15 Q. Okay. So the -- the word on the first
16 line is, "Pay," and then below that, do the -- does
17 Class and Rate modify pay? I mean, in other words,
18 are those underneath the -- I'm trying to understand
19 how that works. What's the relationship between the
20 Pay field and the Class and Rate?

21 A. I'm not sure.

22 Q. Okay. But you got -- okay. Below that,
23 where it says, "Class," first two lines say, "SAL."
24 Does that stand for salary?

25 A. Yes.

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1 Q. All right. And to the right of that, at
2 the Rate, it's got "SL350" and "SL350" for line 1 and
3 2. What does that mean?

4 A. That was just a rate code assigned to the
5 position that he was in at that time.

6 Q. Okay. Does that --

7 A. It -- it doesn't mean anything in the
8 system --

9 Q. Okay.

10 A. -- for salary student.

11 Q. Doesn't -- doesn't tell you what he's
12 making?

13 A. No.

14 Q. All right. Then to the right of that,
15 "Singl Dr rt," I'm assuming?

16 A. That's correct.

17 Q. And he -- when he was a student, he had
18 no single driver rate, correct?

19 A. That's correct.

20 Q. To the right of that, "1st St Dr rt,"
21 there's nothing listed there. Is that -- is that an
22 error or is that -- should there be anything listed
23 there?

24 A. No, there shouldn't be anything there.

25 Q. Okay. "2nd St Dr rt"; is that what that

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1 stands for?

2 A. Yes.

3 Q. Let's just go across the line here.

4 "Single Per-Dim" -- well, what is that next one? It
5 says, "Single Per-Dim, Type Cd." What does that
6 stand for?

7 A. I have -- I'm assuming it says per diem,
8 but none of these cat- -- none of these three columns
9 are used in our system at the time frame I worked at
10 Swift.

11 Q. Okay.

12 A. This was created before I ever started at
13 Swift.

14 Q. Okay. And are you aware of those ever
15 being used to the present time?

16 A. Not that I'm aware of.

17 Q. All right. And then to the right,
18 there's what apparently is a field for "Effec.
19 Date."

20 A. Yes.

21 Q. How does that work? Like, on the first
22 line, it says, "Effec. Date 00/00/00." I'm assuming
23 that's not a true effective date. What -- what --
24 how does -- how does a date re- -- how does a date
25 apply to the line that the date is on?

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1 A. The dates on the side here are when a
2 transaction is entered by our HR department. When
3 they enter a transaction for this person, it will
4 write a history record out here.

5 Q. Okay.

6 A. To show the effective date of what that
7 record was for.

8 Q. Okay. So --

9 A. So when it's in zeros like that, that's
10 his original hire entry.

11 Q. Okay.

12 A. Where he had no date. The system didn't
13 have a date on it.

14 Q. Okay.

15 A. And then when he was hired -- I'd have to
16 look at him specifically, but it looks to me as if
17 it's May 16th of '05.

18 Q. Okay.

19 A. I -- I don't know that for sure, though.

20 Q. Okay. Lost my train of thought. Sorry.
21 Line 2, there is a -- there -- it's identical to line
22 1 except for the effective date, correct?

23 A. That's correct.

24 Q. Is that -- do you have an explanation for
25 that line?

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1 A. No.

2 Q. Okay.

3 A. There's -- it looks as if there's
4 numerous records on here that are the same and I
5 would literally have to look at every HR transaction
6 that was done --

7 Q. Okay.

8 A. -- to see what type of a transaction it
9 was.

10 Q. Are these changes in the driver payroll
11 status, are those entered by payroll or are they
12 entered by human resources?

13 A. Human resources.

14 Q. Is -- is that the way it always works?

15 A. Yes.

16 Q. Does human resources always do that?

17 A. Yeah.

18 Q. Okay. So none of these changes that
19 occurred where we see these new effective dates were
20 entered by people in payroll?

21 A. No.

22 Q. Line 3, there's a change, and so I want
23 to address that, if I could. Let's talk about what
24 we've got. He's no longer a trainee, correct?

25 A. That's correct.

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1 Q. What does "QTY" class mean?

2 A. That means he moved to mileage.

3 Q. Okay. Do you know what --

4 A. It means quantity.

5 Q. Quantity of miles; is that where that
6 comes from?

7 A. Yes.

8 Q. Okay. What -- and where it says "Rate,"
9 it's got "QTY8." What does that stand for?

10 A. It's just a coding in the system. It's
11 our -- it's our required field in the payroll system.
12 It doesn't -- the rate is all tied to the matrix.

13 Q. Okay.

14 A. Not to the quantity. Not what those
15 quantity codes are.

16 Q. Okay.

17 A. It's on a matrix system.

18 Q. And it tells you nothing about what the
19 mileage rate is, correct?

20 A. That's correct. It doesn't.

21 Q. Just says that he's on a mileage rate?

22 A. Yes.

23 Q. All right. Single driver rate column,
24 line number 3, says "3E." What is 3E?

25 A. That's a pay matrix.

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1 Q. That is a pay matrix. Okay.

2 A. And if I could just clarify, as I said
3 before, I didn't create this.

4 Q. Right.

5 A. The headings are -- this is a custom
6 program that was created by IT.

7 Q. Right.

8 A. And the headings are not a true
9 reflection of what the information is. So if I could
10 just clarify, the single driver rate column --

11 Q. Uh-huh.

12 A. -- is what we -- what in the system when
13 it controls all of the pay, this is what his loaded
14 matrix is.

15 Q. Right.

16 A. And then the first seat driver rate is
17 his empty matrix.

18 Q. His?

19 A. Empty matrix.

20 Q. Okay.

21 A. So when there is loaded --

22 Q. When his truck is loaded or unloaded?

23 A. Yes, that's correct.

24 Q. I got you. And in this case, there
25 doesn't appear to be any difference.

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1 A. Not on that record, no.

2 Q. Not on that record. And that goes all
3 the way through to line 6, which has an effective
4 date of June 26, '06, correct?

5 A. That's correct.

6 Q. Do you know what happened between '06 and
7 line 7 where, apparently, he goes back on salary? Do
8 you have any way of knowing that?

9 A. I -- I can -- I am pretty sure I know
10 why, so I don't -- I don't know if it's called a
11 speculation or what I have seen. I haven't looked at
12 his, Troy Slack specifically.

13 Q. Right.

14 A. But it looks as if he was mileage and
15 then they decided he needed more training, so they
16 put him back into a student trainee position for a
17 period of time.

18 Q. Okay. All right. Now, line 9, again,
19 we've talked about the first few fields. He's no
20 longer a trainee again, and he has a -- a matrix
21 under single driver rate and first seat driver rate
22 of 3EW2, correct?

23 A. That's correct.

24 Q. Are these, the ones that we've talked
25 about so far, the 3E and the 3EW2, what we've

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1 mentioned, are those matrices that are specific for
2 Washington state? Well, let's break it down. Is 3E
3 specific for Washington state?

4 A. No.

5 Q. It is not. Okay. That same matrix may
6 apply to any other state?

7 A. Yes.

8 Q. All right.

9 A. That's a linehaul rate. That's a
10 linehaul matrix.

11 Q. Okay. 3EW2, is that specific for
12 Washington?

13 A. Yes.

14 Q. All right.

15 A. That's specific for Grandview Wal-Mart.

16 Q. Grandview Wal-Mart. All right.

17 MR. LANE: I hate to do this, y'all, but
18 Coke is killing me.

19 THE WITNESS: Okay.

20 MR. LANE: I've got to take a break real
21 quick.

22 MS. BRONCHETTI: Take a break? Sure.

23 THE VIDEOGRAPHER: This marks the end of
24 Disk 2. Off record at 1:01 p.m.

25 (Recessed from 1:01 p.m. to 1:08 p.m.)

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1 THE VIDEOGRAPHER: This is the start of
2 Disk 3 in the deposition of Sarah Koogle. We're back
3 on record at 1:08 p.m.

4 BY MR. LANE:

5 Q. Mrs. Koogle, we were talking about
6 Mr. Slack's payroll status changes, the screen that
7 was printed out showing those changes, and I wanted
8 to go back to that Exhibit 6. Looking at line 6,
9 the -- it's a mileage rate, and he was being paid as
10 single driver rate and first seat rate based upon the
11 3E matrix, correct?

12 A. Yes.

13 Q. All right. Do you know by looking at
14 this page right here, does it indicate the --
15 anywhere on here the position that Mr. Slack was
16 assigned?

17 A. No, you have to do F11 to see the
18 additional information, which is page 2.

19 Q. Okay. Now, continuing on, on this page
20 so I can make sure I've gotten as much knowledge as I
21 can from you, looking down, we talked about the
22 matrix -- the matrix called 3EW2, correct?

23 A. Yeah.

24 Q. You said that's a -- that's a Wal-Mart
25 specific -- a Grandview Wal-Mart specific matrix,

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1 correct?

2 A. Yes.

3 Q. And then I think we were down to the --
4 the next one I see is different, is 3EEM, which is a
5 first seat driver rate. What matrix is that?

6 A. That's linehaul also. So the reason it's
7 got 3E in the single driver rate --

8 Q. Uh-huh.

9 A. -- which is the loaded rate and 3EEM, the
10 3E is the loaded rate and 3EEM is an empty pay
11 matrix.

12 Q. Okay. All right. Is it your
13 understanding at the time that this was implemented
14 that there was a difference in the mileage rate
15 between the 3E and the 3EEM or do you know?

16 A. Yes, the rate varies.

17 Q. The mileage rate?

18 A. Yes.

19 Q. Okay. Now, just to continue on
20 identifying these matrices, the -- the next one down
21 on line 12 for single driver rate is WA3E. What does
22 that stand for?

23 A. That is Washington linehaul loaded.

24 Q. Washington linehaul load -- loaded.

25 Okay. And beside that first seat driver rate, and I

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1 believe you told me that would be an unloaded,
2 correct?

3 A. That says empty.

4 Q. Empty. Okay. So that's the same thing
5 with the E on the end standing for empty?

6 A. Yes.

7 Q. Okay. Washington linehaul empty?

8 A. That's correct.

9 Q. Okay. Looking over on the right-hand
10 column under the effective date, I want to make sure
11 I've got the dates lined up with the right rows. In
12 -- on line 9 where he came off of training status
13 again, the effective date for that line says December
14 the 15th, 2008. What does that date mean in terms of
15 him coming -- being reassigned to a 3EW2 matrix?

16 I may have used the wrong terminology,
17 but I don't know if you assign him a -- a matrix, but
18 I know we assign positions. What do we do when we
19 give them a matrix; is that an assignment as well?

20 A. Yes.

21 Q. Okay.

22 A. So my understanding of how to read this
23 screen --

24 Q. Right.

25 A. -- because remember, I didn't -- I didn't

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1 create this screen.

2 Q. Right.

3 A. The dates that are on the line item. So
4 if you could start with line 12, if you go to line
5 12, there's no date there.

6 Q. Right.

7 A. The date that goes with those data, those
8 pay matrix data, is the date that's above, on the
9 line above. So I don't -- I -- I don't remember
10 whether or not Troy Slack is still employed with
11 Swift, but at the -- at the point in time when we
12 printed this page on June 20th of 2012 --

13 Q. Right.

14 A. -- the very last line item, the reason
15 the date's blank there is because that's his existing
16 -- what the system showed on that date as his
17 existing setup. And so the WA3E was entered or the
18 change was made on 9/1 of 2011.

19 Q. Okay.

20 A. Effective 9/1/11.

21 Q. Okay. So he's -- he would be paid under
22 the WA3E either loaded or unloaded or empty starting
23 September 1, 2011?

24 A. That's correct.

25 Q. Okay. All right. And hopefully that's

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1 correct, but that's -- that's your understanding of
2 the way you read it, correct?

3 A. Right.

4 Q. Okay.

5 A. I would have to have all the HR
6 information.

7 Q. Okay. And you said that you do an F --
8 to -- to find out about the position, you would do
9 the F what?

10 A. F -- F11.

11 Q. F11.

12 A. From that --

13 Q. F11 for additional information?

14 A. Yes.

15 Q. All right. And that's where we are on
16 page D010195?

17 A. That's correct.

18 Q. All right. So on this page, then,
19 what -- what all is additional information to what we
20 saw on the previous page?

21 A. This would show the --

22 Q. I -- I notice, by the way, that -- that
23 this one starts, as far as the number is concerned,
24 it starts at number 6 and goes through 10.

25 A. Can I explain why?

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1 Q. Yes. And that -- that was my question.

2 A. Okay. So when we were requested to
3 provide the information, the case -- I don't remember
4 the exact date, but it was for 2008.

5 Q. Uh-huh.

6 A. So we -- 2008 is on this first page.
7 It's also got 2005, 2006.

8 Q. Right.

9 A. We provided this first page because it
10 provides the date that we were requested to provide.

11 Q. Right.

12 A. But when you do F11 and it breaks it all
13 out, the 2008, everything prior to number 6 on the --
14 on page -- the second page --

15 Q. Uh-huh.

16 A. -- is for the date that isn't applicable
17 to this case.

18 Q. That wasn't part of the -- the --

19 A. They were all --

20 Q. -- requested time frame --

21 A. That's correct.

22 Q. -- that you were asked to provide?

23 A. That's correct.

24 Q. Okay. It's not that that information's
25 not available, it just wasn't part of the -- within

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1 the range that you were asked to provide, correct?

2 A. That's correct.

3 Q. Okay. Well, just to be clear, the
4 data -- the data is available that would be
5 reflective of lines 1 through 5 on the previous page?

6 A. If requested, yeah.

7 Q. If it was requested. Okay. Now, we
8 covered that issue about why it starts at line 6.
9 What is the additional information that is provided
10 on this page?

11 A. The additional information that's
12 provided is a stop pay matrix. If you --

13 Q. I'm sorry. Tell me that again, what you
14 call it?

15 A. It's a stop pay matrix. So if --

16 Q. Stop pay matrix?

17 A. If you look at line 8 -- well, line 7 has
18 it also. Over on the left side, there's ST00, ST00.

19 Q. Yes.

20 A. Or if you get down a little bit further,
21 it says, "ST10, ST10."

22 Q. Right.

23 A. Those -- that shows what the stop rates
24 were, so this screen will show the stop rates.

25 Q. Oh, you're talking about additional pay

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1 for stops?

2 A. Yes.

3 Q. Okay. I'm sorry. Let's talk about some
4 other additional information that I don't think is on
5 the previous page. We've got -- again, at the top,
6 we've still got his identification code, his driver
7 code, and his name, and the date this was printed,
8 correct?

9 A. Yes.

10 Q. All right. And on line 6, though, we
11 have the same information on the beginning, the first
12 page, but we also have below that under the rate
13 column, something called "H DT"?

14 A. Yes.

15 Q. Is that the date of hire?

16 A. Yes, it is.

17 Q. Okay. So that -- and this looks like he
18 was hired, I guess, at least at this time on June the
19 26th, 2006, correct?

20 A. That's correct.

21 Q. Okay. Do you -- well, looking at the
22 previous page, it looks like he's got a new hire
23 date. Did -- was he rehired, to your knowledge,
24 based on this information?

25 A. I believe he is a new hire -- a rehire.

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1 Q. Rehire.

2 A. This would only show -- I actually don't
3 know if it shows the original hire date or adjusted
4 date of hire.

5 Q. Okay. All right. But in this case, it
6 shows a hire date of June 26, 2006?

7 A. That's correct.

8 Q. All right. And then down on the last
9 line, we see in addition to -- well, it's actually on
10 every column. There's also a termination date field,
11 correct?

12 A. I am not positive it's termination date.

13 Q. Okay.

14 A. That would be an assumption.

15 Q. T -- "T Dt," you don't know what that
16 means?

17 A. No.

18 Q. Okay. The pay matrices reflected here,
19 though, are the same as what's reflected on the
20 previous page, correct?

21 A. Yes, it is.

22 Q. Okay. Now, to the right over there
23 under -- I don't know if they're under those columns.
24 Well, they are under them, but I don't know if those
25 columns have any relationship to the information. Do

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1 you know? Like, where it says, "1st Seat Per-Dim,"
2 Type Code -- or "Type Cd," do those items below that
3 have any relationship to those headings?

4 A. I am not sure.

5 Q. Okay. In any event, looking at line 6,
6 what does the term -- what does the letters "Emp/Sts"
7 stand for?

8 A. I am again assuming it's employee status.

9 Q. Okay.

10 A. Terminated or active.

11 Q. Okay. And right beside that, it has a
12 "T" on line 6. Do you know what that stands for?

13 A. It's an assumption again. It's --

14 MS. BRONCHETTI: Don't assume, like, if
15 you don't know.

16 THE WITNESS: Sorry.

17 MS. BRONCHETTI: No, that's okay. But we
18 just want to know what you know.

19 THE WITNESS: I don't know then.

20 BY MR. LANE:

21 Q. Okay. But you mentioned that typically
22 it would either -- it would either be -- his status
23 would either be terminated or active, correct?

24 A. Terminated, active, or leave of absence.

25 Q. Okay. And then below that, just so we

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1 can -- I'm not asking you to confirm definitely, but
2 would that be consistent with him being in an active
3 status where it says, "Emp/Sts A"?

4 A. I wouldn't know.

5 Q. Okay. Looking back at line 6, right
6 beside the T, to the right of the T, it's got a
7 "Pos:". What does that stand for?

8 A. Position code.

9 Q. Okay. And you're sure about that?

10 A. Yes.

11 Q. Okay. And then beside that, we've got
12 a -- an acronym, what appears to be an acronym.

13 "TRTEVN."

14 A. Yes, that's the position code.

15 Q. What does that stand for?

16 A. Troutdale trainee van.

17 Q. Troutdale?

18 A. Trainee.

19 Q. Trainee?

20 A. Van.

21 Q. Van. Okay. And where is Troutdale?

22 A. Oregon.

23 Q. Oregon. All right. Down below that,
24 we've got Troutdale trainee again, correct?

25 A. That's correct.

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1 Q. On line 7. And then below that, we
2 have -- and -- and during that, he was getting
3 linehaul -- he was being paid under a linehaul matrix
4 on line 6, correct? I mean, it says, "3E" out there.
5 I'm just trying to --

6 A. I'm not sure -- I'm not sure why it looks
7 like that because he -- he wouldn't be paid mileage
8 under a training position code.

9 Q. Okay. And that's -- that's why I want to
10 be clear because on the previous page on line 6, it
11 does have him down as 3E, correct, for that period,
12 for that same --

13 A. Yes.

14 Q. Okay. So you're not sure why that is,
15 correct?

16 A. I'm not sure.

17 Q. Okay. Line 7, again, he's got the same
18 trainee's position, correct?

19 A. Yes.

20 Q. And that -- is that a Washington position
21 or you said Oregon, but is that -- is he working in
22 Washington, or what's the --

23 A. No, he was working in Oregon.

24 Q. Okay.

25 A. He was assigned to an Oregon terminal

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1 location.

2 Q. Okay. And then on line 8, apparently
3 he's assigned to a -- to the Grandview position at
4 that time, correct?

5 A. Grandview mileage Wal-Mart, yes.

6 Q. Grandview mileage Wal-Mart, which means
7 what?

8 A. He was paid a mileage pay.

9 Q. Okay. Where is Trout- -- you said
10 Troutville (sic)?

11 A. Troutdale.

12 Q. Troutdale. Where's Troutdale in
13 relationship to Grandview?

14 A. I have no idea. One's in Washington.
15 One's in Oregon.

16 Q. Okay. Line 9, same position, correct?

17 A. Yes.

18 Q. Different matrix, but same position?

19 A. I believe the matrix is the same 3EW2.

20 Q. Oh, I'm sorry. I thought that the matrix
21 on line 8 was salary. Did I read that wrong?

22 A. This -- this print of this screen is very
23 confusing because you can tell that the information
24 is wrapping since they printed it portrait and not
25 landscape. So instead of printing it -- when you

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1 open this F11 screen up, it's -- it's long across the
2 screen, so they should have printed it on a landscape
3 page so the data wouldn't wrap on three lines like
4 this.

5 Q. Okay. Well, I'm looking at the previous
6 page, though, on line 8, information on line 8 has
7 him as a trainee salary. Is that not consistent with
8 line 8 on the next page?

9 A. Right. But I don't know which position.
10 He -- like I had said previously, he wouldn't be in a
11 salary pay matrix with a mileage position code.
12 "GVEXWM" is a mileage position code.

13 Q. Okay. I -- I want to understand why
14 that's the case, but right below that, it even has
15 "SALARY SL350 : 350.00 SAL PAY RATE" underneath the
16 position GVEM- -- GVEXWM. I mean --

17 A. It's the way it's printed.

18 Q. Okay. How do we sort that out?

19 A. You ask us to -- to provide the HR data
20 that goes along with this, the transfer information
21 that shows the actual transfer detail, the day it was
22 entered, and what the change was from the HR system,
23 not the payroll system.

24 Q. All right. Well, let's move on. Does
25 line 9 appear to have the proper information that's

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1 consistent with the position code? In other words,
2 his position code is Grandview EX. Is that
3 experienced? Is that what the "EX" stands for?

4 A. No, not necessarily. That just tells our
5 system that it's mileage.

6 Q. Okay.

7 A. I'm not -- I wasn't here for the coding,
8 how they coded things.

9 Q. Okay. In any event, it's the same code
10 that we see in the previous line, and it's Grandview
11 Wal-Mart, correct?

12 A. Yes.

13 Q. And it's a mileage rate, correct?

14 A. Yes.

15 Q. And for that position, he's being paid
16 under the 3EW2 matrix?

17 A. Yes.

18 Q. Okay. Now, what is the -- the last item,
19 line 10, it's got a position code of "GVCAWM." What
20 does that stand for?

21 A. That stands for Grandview Wal-Mart,
22 Grandview Washington Wal-Mart casual.

23 Q. Casual driver?

24 A. Yes.

25 Q. All right. And that change occurred

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1 when?

2 A. It's hard to tell from this screen. It
3 would be an assumption.

4 Q. Well, what screen would you need to go
5 to?

6 A. The HR system.

7 Q. Is there some reason we don't see -- oh,
8 they're on the next page. I got you. So lines 11
9 and 12 are on the next page, correct?

10 A. Yes.

11 Q. All right. Is he still driving as a
12 casual driver here?

13 A. According to his position, yes.

14 Q. All right. Position hasn't changed on
15 either of those, correct?

16 A. That's correct.

17 Q. All right. At some point, though, he --
18 he -- even -- at -- in that position at Wal-Mart, he
19 started being paid under a linehaul matrix, correct?

20 A. Yes.

21 Q. WA3E and WA3EE. Well, actually, both of
22 those, all of those are linehaul matrices, correct?

23 A. Yes.

24 Q. 3E. Okay. Now, you -- you mentioned
25 before that 3E is not a Washington specific matrix,

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1 correct?

2 A. That's correct.

3 Q. Is the Washington -- is WA3E and the
4 WA3EE Washington specific?

5 A. Yes, it is.

6 Q. Okay. And it's your understanding, from
7 looking at this, that that matrix -- he was changed
8 to that matrix on September 1st, 2011 correct?

9 A. That's correct.

10 Q. Now, let's skip over to the next page. I
11 have D010197, and I know we -- we indicated that
12 these were provided to us in sequential order. I
13 don't believe that this page that's got a title of
14 "Package Details" at the top identifies Mr. Slack
15 specifically, but this is one of the package details
16 that would apply to him, correct?

17 A. Yes.

18 Q. 3EW2?

19 A. Yes.

20 Q. Okay. Let's go over that. Now, what --
21 what is meant by package detail? What is contained
22 in a package detail?

23 A. The pack- --

24 Q. What -- what does package detail mean?

25 A. The package detail is what does the --

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1 what is the pay package that applies to that position
2 code. You could see the position code GVEXWM about
3 halfway down the page --

4 Q. Right.

5 A. -- is the Grandview experienced Wal-Mart
6 position code.

7 Q. Okay.

8 A. This is just something that is entered
9 into our system as the ideal standards to pay a
10 driver that's in that position code.

11 Q. Okay. And how do you decide what is
12 being paid to any particular driver, such as
13 Mr. Slack, under this package detail? What would
14 he --

15 A. We --

16 Q. -- in other words, he's being paid under
17 pay matrix 3EW2, correct?

18 A. Correct.

19 Q. Does -- does 3EW2 include all of these
20 items that are listed above, which is, "Pay Rate:
21 .28-.38, Stop Off: \$10, Load: \$60"?

22 A. No.

23 Q. And on and on?

24 A. The pay matrix only applies to mileage
25 pay.

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1 Q. Okay. All right. And so all of these
2 other -- well, actually, we have up here, though,
3 under pay rate, the mileage rate, there's a range,
4 correct?

5 A. Yes.

6 Q. Is that the range for 3EW2?

7 A. I wouldn't know without having the matrix
8 in front of me.

9 Q. Okay. And you're saying that these other
10 items -- we don't know about the pay rate, the range
11 that's listed on here for the pay rate, mileage rate,
12 but for all of these other items, you're saying those
13 aren't necessarily tied to the 3EW2 matrix?

14 A. No, they're not.

15 Q. Okay. Now, just since it's the first
16 time we've looked at one of these, these package
17 detail sheets, I want to go over everything. At the
18 top, right below the title, "Package Details," it's
19 got a field called, "Effective Date." Do you see
20 that?

21 A. Yes.

22 Q. I don't see a date on there. Ordinarily,
23 would an effective date for this package be provided?

24 A. It would.

25 Q. It would?

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1 A. Uh-huh.

2 Q. Do you know why it isn't in this case?

3 A. Yes.

4 Q. Why is that?

5 A. Because when 2006, when I keyed all this
6 data into the pay package --

7 Q. Right.

8 A. -- the information was previously stored
9 in an Excel spreadsheet, and we have thousands of pay
10 package details in a spreadsheet and they developed a
11 database, which is the screenshot you're seeing, to
12 house our pay package details. So when the data was
13 keyed, originally keyed from the spreadsheet into
14 this data housing area, the spreadsheet did not have
15 an effective date on it. So that was before my time.
16 I have no idea why it didn't have an effective date
17 on it, but that's why there's not an effective date
18 on the screenshot here because at the time, the
19 spreadsheet did not have an effective date on it.

20 Q. Okay. For this particular package
21 detail, is there a name or an identifier for this
22 particular package?

23 A. Not on this sheet, no.

24 Q. Where would it be?

25 A. There's a -- a sheet previous to this

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1 that has the -- it's not in the screenshots here.

2 Q. Okay.

3 A. That has the account name and the
4 terminal location.

5 Q. Okay. Is there some reason that was not
6 included?

7 A. I wouldn't know.

8 Q. Do you recall asking that to be printed
9 or...

10 A. Not that I'm aware of.

11 Q. Okay. Are there -- other than that
12 previous page that would be linked to this package
13 detail page, would there be other pages linked to
14 this?

15 A. Linked to this -- this particular --

16 Q. This particular one?

17 A. No, no.

18 Q. Okay. I understand the history could run
19 into another page --

20 A. Yes.

21 Q. -- and you would have some more history,
22 correct?

23 A. Yeah, but it would have been on here.

24 Q. Okay.

25 A. Because it prints way down far on the

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1 screen.

2 Q. I got you. Okay. Below the effective
3 date, which is blank, you've got "Unit Division #:",
4 correct?

5 A. Yes.

6 Q. What does that mean? What's that for?

7 A. That's an operations number that is --
8 specifies Grandview Wal-Mart is what division number
9 for the unit that the driver drives.

10 Q. Okay. Is there a reason that field is
11 empty?

12 A. Because it was not on the spreadsheet
13 when it was keyed in.

14 Q. Now, to the right it says, "Existing
15 Position: Yes." Is that just a yes or no, this is
16 an existing position that's GVEXWM?

17 A. Yes. When this was keyed into the
18 database, was it already an existing position or are
19 they requesting a new position, and it was already
20 existing, which is why it was on the spreadsheet.

21 Q. Okay. "Cost Center," what is that field
22 for?

23 A. It's the cost center of the unit that the
24 cost -- the revenue of the trip is coded to.

25 Q. Okay. It's a -- it's a way to flow the

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1 money --

2 A. Yeah.

3 Q. -- coming from the -- from the trip back
4 to the company?

5 A. Yes.

6 Q. Okay. Then in the -- the next line down,
7 in the middle of the page, it says, "Number of
8 Drivers." What would that be in that field?

9 A. It would be the number that when they
10 created this request, how many were they expecting to
11 have in the position, or estimating would be in that
12 position.

13 Q. Is there a reason that the number of
14 drivers is not included in this field?

15 A. Yes, because it wasn't on the
16 spreadsheet.

17 Q. Is that an estimate of how many they
18 would expect to be on there, or is that a number
19 that's -- that's updated to show actually how many
20 drivers are operating under this position?

21 A. No, it's an estimate, totally an estimate
22 of how many they thought they would be in that
23 position.

24 Q. Okay. So if I wanted to find out how
25 many drivers at -- at any given time were operating

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1 in the GVEXWM position, is that something you could
2 search for, for a particular date range to give that
3 information?

4 A. That would be something HR would have to
5 provide.

6 Q. Okay. You say you could not do that in
7 the --

8 A. In payroll?

9 Q. In payroll?

10 A. No.

11 Q. Now, down below that, just before we get
12 to the history, there's a -- it looks like a -- a
13 field for details. What is included in the details?

14 A. Just any other additional comments that
15 go with that position.

16 Q. Okay. Okay. Now, down below that, and
17 I -- I -- I do want to get an understanding as to how
18 the history works. Tell me how the history works on
19 these pay -- package details.

20 A. The history that's got the dates and the
21 names next to it down at the bottom?

22 Q. Yes.

23 A. That's just if there is an update made
24 after the -- if there is -- once it goes through each
25 of the approval levels, we're able to make comments

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1 to what did we do with that pay -- that pay package.
2 And then the -- the requester or all of the people
3 that can pull up this pay package are able to see the
4 comments that were made on there.

5 Q. Okay. Now, here's -- here's my -- my
6 confusion. What -- what is this used for? You're
7 saying it just comes from some database spreadsheet.
8 Is this a -- is this package tied to the system so
9 that if you're in position GVEXWM being paid under
10 pay matrix 3EW2, then under this package detail,
11 you'll be paid so much per mile and whatever the
12 extra pay is?

13 A. This pay package is only for the -- the
14 guidelines of what the account holder or account
15 manager creator has -- has said they want to pay a
16 driver that's in this position. There's -- there's
17 nothing on this other than the pay matrix pays the
18 mileage rate, the stop-off rate is an automated rate
19 in the system also. All this other stuff on here is
20 completely manual. That's entered by a manager. So
21 we are saying here are what your guidelines are, but
22 it's not --

23 Q. I guess that's my question. Who is it
24 that uses this? Are you saying the -- the driver
25 managers use this?

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1 A. Multiple people use it. Everyone has
2 access to it, so...

3 Q. Name those -- name the people who would
4 primarily be intended to use this.

5 A. A regional manager, a terminal manager, a
6 fleet manager, a driver manager, all of payroll, the
7 pricing department, the finance department, the HR
8 department, business analyst groups.

9 Q. Well, let -- okay. So how -- how do you
10 use this in payroll?

11 A. We -- we receive this pay package. It
12 goes -- you can see the routing. It goes from a
13 terminal manager creating it for a regional VP -- EVP
14 to approve it, pricing has to approve it, finance
15 approves it, HR approves it, and then it comes to
16 payroll. So each step is putting -- each step of the
17 routing is putting information into the pay package.

18 Q. Right.

19 A. After it's done by everybody else, we go
20 into our system and we create -- this position code
21 goes with this mileage matrix and this stop matrix,
22 and then we set up the table. If it's a new matrix,
23 pay matrix, we set up the table that ties the rates
24 to what they've requested as the rates on this pay
25 package.

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1 Q. Okay. I guess that's what I'm asking.
2 And from a payroll perspective, after everybody's put
3 their two cents worth in here, you use this
4 information to actually set up the -- the -- the
5 payroll system?

6 A. Pieces of the payroll system.

7 Q. Pieces of the payroll system to allow
8 this to be implemented for any given driver under
9 this position?

10 A. Right. In order for -- you'll have to
11 have it set up in our pay system with a matrix in
12 order for them to be able to assign a driver to that
13 position code.

14 Q. Okay. All right. So this just views the
15 payroll for the setup process?

16 A. Yes.

17 Q. All right. Well, let's look at the
18 history, now that I understand how you used this. It
19 says, "11/09/2006 02:33:57 p.m., Sarah Koogle,"
20 that's you, "changed the Details field data from:
21 {3EW2 matrix pays \$30 more for loads under 151
22 miles}," and you changed that "to: {3EW2 matrix pays
23 \$30 more for loads under 151 miles. Trainee/spouse
24 position GVTSWM.}" Looks like you just added
25 trainee/spouse position GVTSWM. Why would you be

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1 adding that information?

2 A. Because after this was originally --
3 after this actual pay package was created, they added
4 a new position code to the Grandview Wal-Mart
5 account.

6 Q. The trainee/spouse training?

7 A. Which is the trainee -- yes.

8 Q. Okay.

9 A. The Grandview trainee/spouse position
10 code.

11 Q. Okay.

12 A. So I can't -- I can't go in and edit
13 the -- there's particular information on here that I
14 cannot edit, and so I have to put it in the comments
15 below.

16 Q. Okay. All right. I guess my question
17 is: Why -- why were you adding that in the details
18 field up there?

19 A. Because I'm -- my department is the only
20 one that has access to edit it after it's already
21 been completed.

22 Q. Okay.

23 A. Once it's in a completed status, you can
24 not have the requester, the HR department, anywhere
25 else edit the document, only payroll can.

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1 Q. Okay. Now, if a -- if a driver is
2 assigned GVEXWM and he's also assigned a 3EW2 pay
3 matrix, other than manual changes made by a driver,
4 manager, or someone actually managing the driver, do
5 you have any -- all things being equal, do you have
6 any variance in how that driver would be paid from
7 one driver to the next with the same criteria?

8 A. Are you talking about in respect to the
9 mileage pay? Or --

10 Q. The mileage -- well, the mileage pay, I
11 understand, is -- is -- may vary depending on
12 experience level, correct?

13 A. There's many, many variances --

14 Q. Okay.

15 A. -- on mileage pay.

16 Q. Under 3EW2, pay matrix 3EW2, which you
17 said reflects a certain mileage pay, correct?

18 A. Yes.

19 Q. What are the variables that determine
20 what a driver makes?

21 A. You want me to list all of them?

22 Q. Well, assuming that -- yeah, assuming
23 it's not -- you know, we're not going to be sitting
24 here for 30 minutes, but, I mean, if it's a lot, tell
25 me what's your understanding, if you know.

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1 A. There, it's based on experience, truck
2 driving experience.

3 Q. Okay.

4 A. So that's months of service.

5 Q. Right.

6 A. It's based on is the load loaded, are the
7 miles -- are there loaded miles on the load or empty
8 miles on the load.

9 Q. Okay. For 3EW2?

10 A. Yes.

11 Q. Okay.

12 A. Is the load -- depending on the number of
13 loaded miles on the load, like it says on here under
14 151 miles, it pays \$30 more --

15 Q. Right.

16 A. -- for the load. So then it pays a -- an
17 additional flat amount in addition to his mileage.

18 Q. Right.

19 A. If it's team, the team rates vary. If
20 they're a team driver that are both mileage-paid
21 drivers for first seat and second seat.

22 Q. Okay.

23 A. If they're mentor student combination
24 where I'm training somebody, my rate could vary based
25 on whether I'm training someone at this time or not.

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1 Q. Uh-huh.

2 A. And for Grandview, Washington, I don't
3 think they go East Coast, so there wouldn't be a
4 change for East Coast. I believe that's all of the
5 variations --

6 Q. Okay.

7 A. -- on the mileage pay.

8 Q. Now, that's -- that's good, and that's --
9 you tried to give me your best understanding. If you
10 think of another one, that's fine. Is that typical
11 of these pay package pay matrices for Washington
12 positions that you would have those variables?

13 A. There's -- there's more. That's not
14 specific to Wal-Mart.

15 Q. Okay. All right. All right. Now, I
16 want to make sure we're comparing apples to apples
17 and oranges to oranges. If -- if you have a driver
18 under this pay package that we're talking about here,
19 3EW2 matrix, GVEXWM has the same experience as the
20 next driver and the -- I understand that the rate
21 changes depending on the mileage for loads and
22 unloads, but I'm assuming all things being equal,
23 length of the -- length of the trip that would kick
24 in, this 151 miles, \$30 more for loads under 151
25 miles, you know, mentor status, mentor -- mentoring.

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1 All things being equal, if you -- if -- if this -- if
2 these fields are the same for one driver versus
3 another driver, is there any other reason why the pay
4 would be different under this pay package for those
5 two drivers?

6 A. Comparing they're both Washington
7 Wal-Mart based drivers?

8 Q. Yes, they're both GVX- -- GVEXWM.

9 A. No, the rate would be the same.

10 Q. Okay. All these -- if all these -- if
11 all these fields are the same, the -- the rates and
12 the pay would be the same, correct?

13 A. The mileage rate would be the same.

14 Q. The mileage rate would be the same.
15 Okay. Okay. Let's -- sorry to be taking so long.
16 Let's go to the next page. DE -- D010198, page
17 number. What are we looking at here?

18 A. This is -- this is a screen that we just
19 recently created. As you can see, the last update
20 date is 2012. It's our -- it's a screen that we
21 created that allows us to put pay package information
22 into what we call AS/400, which is a -- our computer
23 system. AS/400 is our computer system. So this --
24 this screen, this document on DZ -- or D010197 that
25 we were just -- we were just reviewing, the previous

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1 page.

2 Q. Right.

3 A. This is a Lotus Notes application. So
4 it's a database, a Lotus Notes database application.
5 So the screenshot in D010198 is the AS/400
6 information.

7 Q. Version of the package details we just
8 talked about?

9 A. Yes.

10 Q. Okay.

11 A. It has -- it's not tied -- it's not to
12 anything. It's not -- it's manually created by our
13 payroll department, and the purpose for it was to
14 allow us to try and do some automation of certain pay
15 items, or allow us to do additional reporting to
16 audit pay items that are based on that position code,
17 but it's -- because it was created in 2012, we've not
18 -- we've not actually tied anything to it. It's just
19 for informational purposes for our department. Our
20 payroll department is the only department that can
21 see this information.

22 Q. Okay. Are your -- are your other screens
23 based on that same Lotus system?

24 A. What other screens?

25 Q. I guess the -- the previous computer

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1 prints that we talked about. It looks like the
2 fields are the same. You've got the same date fields
3 up in the right, date and time fields, the same user
4 code. I don't know if that's user code in the top
5 left-hand corner.

6 A. She's the one that printed these when the
7 request -- when the information was requested --

8 Q. Yeah, I understand.

9 A. -- for this user. This is -- this is --
10 the first document is AS/400. The second document is
11 AS/400. The third one's AS/400. This is Lotus
12 Notes.

13 Q. Okay. And then the next one is AS/400?

14 A. AS/400.

15 Q. I got you. I misunderstood you. I
16 apologize. So the AS/400 screenshot is -- is the
17 representation of the Lotus Notes on the previous
18 page?

19 A. Yes.

20 Q. All right. Let me ask you a couple
21 questions about this. You said that this -- D010198
22 was created recently; is that correct?

23 A. The program was created recently, a
24 system that allows us to key it into the AS/400.

25 Q. Okay. And is this -- is this information

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1 or is this -- this -- this data that's keyed in on
2 the AS/400 used in the automated pay process?

3 A. No.

4 Q. It is not. Okay. What is the purpose of
5 having that into -- in the system? What is the
6 purpose of re-keying that in to the AS/400 system?

7 A. It -- the purpose for keying it in was to
8 allow us to do future programming to possibly
9 automate items or edit or audit items that are
10 specific to that position code and pay matrix
11 combination.

12 Q. Okay. A couple of questions. First of
13 all, this is the 3EW2 pay matrix we've been talking
14 about and the position code we've been talking about,
15 correct?

16 A. Yes.

17 Q. We have an effective date of four -- of
18 April 1st, 2004. Where does that date come from?

19 A. I'm not sure where the date come -- came
20 from.

21 Q. And then we have a last update of March
22 7th, 2012, correct?

23 A. Yes.

24 Q. Do you know what the update consisted of?

25 A. No, I don't.

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1 Q. Okay. Just so I'm clear, it looks like
2 for every yes or no field, everything is marked no in
3 terms of automated in this -- in terms -- in terms of
4 the automation. It's marked no for automation,
5 correct? And then except for down where it says
6 "short haul," and that's "yes." Do you know if the
7 short haul function on here was automated?

8 A. The short haul function was automated as
9 part of the pay matrix.

10 Q. The 3EW2 pay -- pay matrix?

11 A. Yes.

12 Q. Yes. So in this particular case, at
13 least that part of it is -- is -- as part of the
14 AS/400 system, is automated?

15 A. It's automated. It was automated before
16 this was ever created, though.

17 Q. Okay. And the details of the short haul
18 are on the previous page; is that -- where -- where
19 would we see the details?

20 A. In the details of the previous page where
21 it says 3EW2 matrix pays \$30 more for loads under 151
22 miles.

23 Q. Okay. And actually, we see that on the
24 next page as well, correct?

25 A. That's correct.

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1 Q. D01099; is that correct?

2 A. Yes.

3 Q. Okay. Again, the effective date listed
4 on this next page, which is D010199 is April 1st of
5 2004, correct?

6 A. That's what it says.

7 Q. Okay. What does this page, this
8 screenshot show us, other than --

9 A. Are you --

10 Q. Other than the --

11 A. Are you back on 199?

12 Q. Yes.

13 A. It shows the short haul details, the
14 titles at the top.

15 Q. Okay.

16 A. And the columns over on the right side
17 that say, loaded, empty, yes or no.

18 Q. Yes.

19 A. It tells you is this short haul based on
20 loaded miles, yes or no, or empty miles, yes or no.
21 They could both be yes. They could, one be, like,
22 it's based on loaded miles only.

23 Q. Okay. So for this particular matrix,
24 it's loaded miles?

25 A. Yes.

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1 Q. Okay. Again, it looks like that was
2 updated March 7th of 2012, correct?

3 A. That's correct.

4 Q. All right. And that's when that short
5 haul information was updated?

6 A. That's when it was keyed into the screen.

7 Q. Okay. Help me out on down below that,
8 several lines, it says, "Single," "First," "Second,"
9 and "Trainer." And then it's got some -- some
10 numbers below that. Can you tell me what -- and it
11 looks like under miles, too, it's got numbers. Can
12 you explain that? I guess that's a matrix.

13 A. It -- it is the matrix, and I believe we
14 provided the actual matrix screen, but it -- she
15 copied and pasted it in here, so what it's telling
16 you is if the driver's single, which is a solo --

17 Q. Right.

18 A. -- seat. If it's 1 to 150 miles, it pays
19 \$30.

20 Q. That's what the 300000?

21 A. Yes.

22 Q. Or whatever?

23 A. So it's got five decimals. So a 30 and
24 then you have to put a decimal in there, and then
25 there is five digits after the decimal. And then if

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1 it's a team rate, so if you're the first seat, you
2 get \$15. If you're the second seat, you get \$15.

3 Q. Okay.

4 A. And then trainer is the solo, the same as
5 the solo rate.

6 Q. Okay.

7 A. \$30.

8 Q. And that reflects how the -- the short
9 haul matrix is applied?

10 A. Yes.

11 Q. All right. Next page, D010200. What is
12 this -- it says, "Pay Package Valid Combo Screen
13 Additional Information." What's -- what is this
14 showing us?

15 A. It's the exact same thing as 198, but
16 it's for the Grandview Wal-Mart casual position code.

17 Q. Well, we've also got a different pay
18 matrix, don't we?

19 A. Yes.

20 Q. What is -- what's the difference in the
21 pay matrices on --

22 A. When this screenshot was created, that's
23 the one that was effective 9-1 of 2011, the effective
24 date on there.

25 Q. Okay. Do you know when that pay

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1 matrices -- matrix was created, the WA3E and WA3EE?

2 A. 9-1 of 2011.

3 Q. That's when it was created?

4 A. Yes.

5 Q. Do you know why it was created on
6 September 1st, 2011?

7 A. Yes.

8 Q. Can you tell me why?

9 A. That is -- at the time frame, we were
10 doing our audit review that I spoke of earlier.

11 Q. Right.

12 A. Where we identified there were instances
13 where a mileage-based Washington -- a mileage-paid
14 Washington driver, there were small instances where
15 the newer drivers that had come out of training were,
16 if they had a larger number of hours and a smaller
17 number of miles driven through a pay week, that their
18 rate was not sufficient to cover the overtime
19 inclusive amount.

20 Q. So you -- you created a matrix to change
21 the mileage rates?

22 A. Yes.

23 Q. Okay. Can you tell me what the changes
24 were?

25 A. I don't have it in front of me, but I

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1 remember the lowest rate of the pay matrix was paying
2 25 or 26 -- 26 cents per mile, and it was changed to
3 start at 28 cents per mile.

4 Q. Okay. Who made the decision on the
5 increase in the starting amount?

6 A. I'm not sure.

7 Q. You don't know? What department would be
8 responsible for that?

9 A. It would come from numerous areas. Our
10 executive team.

11 Q. Would it be people in payroll?

12 A. No.

13 Q. Would it be people in human resources?

14 A. No.

15 Q. Can you name the -- the departments,
16 then?

17 A. It would -- it was a decision that was
18 made without my review. I wasn't involved in the
19 decision. I was involved in making the change.

20 Q. I understand. I understand you -- you
21 implemented what you were told to -- to put in the
22 system. But do you know what department made the
23 decisions about the increase?

24 A. No.

25 Q. Okay. But you know it wasn't payroll and

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1 you know it wasn't HR?

2 A. Yes. HR doesn't make decisions on rates
3 for driver -- mileage drivers.

4 Q. Okay. What other departments are there?

5 MS. BRONCHETTI: Objection; vague. She
6 said she doesn't know what department made the
7 decision, so how does this --

8 MR. LANE: I didn't know. I didn't -- I
9 asked her what the other departments are.

10 MS. BRONCHETTI: At Swift?

11 MR. LANE: Yes, at Swift.

12 MS. BRONCHETTI: You want to know all of
13 the departments at Swift?

14 BY MR. LANE:

15 Q. I want to know the -- the other
16 departments at Swift that are in administration that
17 would have been responsible for -- to have anything
18 to do with the pay rates.

19 A. I wouldn't know.

20 Q. Wouldn't know. Okay. Okay. This also
21 has a last update of March 7th of 2012. Do you know
22 what was updated at that time?

23 A. That's the date she keyed it into the
24 screen.

25 Q. Okay. Now, prior to -- prior to this

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1 matrix, which was dubbed, that's my words, WA3E and
2 WA3EE, which I assume means empty versus loaded,
3 correct?

4 A. That's correct.

5 Q. Were those -- was this one created from
6 the previous 3E and the 3EE?

7 A. Yes, it was.

8 Q. Okay. And so 3E and 3EE were modified to
9 reflect a new pay matrix for Washington, correct?
10 Correct?

11 MS. BRONCHETTI: Objection; misstates the
12 witness' testimony.

13 THE WITNESS: What was your question?

14 BY MR. LANE:

15 Q. So -- well, I'll try to ask it again. So
16 WA3E and WA3EE were modifications of 3E and 3EE to
17 reflect a new pay matrix for Washington drivers,
18 correct?

19 A. That's correct.

20 Q. The next page -- and that may be our last
21 one on this exhibit, the D010201. Do you have that
22 in front of you?

23 A. Uh-huh.

24 Q. What does this reflect?

25 A. The short haul details.

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1 Q. Okay. Is it the -- is it the same as the
2 previous short haul details?

3 A. Yeah.

4 Q. Okay. Just the "ESLIHE" under the up- --
5 update column, is that the user?"

6 A. Yes.

7 Q. Okay. This is the person that pulled the
8 screen up and...

9 A. That's the person that keyed the data in
10 the screen.

11 Q. Keyed the data in. I got you. Okay.
12 Thank you. Now, I -- I hope I have a better
13 understanding of how all that stuff is tied in
14 together, and maybe we can go faster on some other
15 ones, but I want to go to -- before we go to a
16 different client -- well, let's just --

17 MR. LANE: Do you want to take a quick
18 break?

19 MS. BRONCHETTI: Sure.

20 MR. LANE: Okay.

21 THE VIDEOGRAPHER: Going off record at
22 2:05 p.m.

23 (Recessed from 2:05 p.m. to 2:16 p.m.)

24 (Exhibit 7 was marked for identification.)

25 THE VIDEOGRAPHER: Back on record at 2:16

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1 p.m.

2 BY MR. LANE:

3 Q. Mrs. Koogle, I've handed you what we've
4 marked as Exhibit No. 7 to your deposition. Do you
5 have that in front of you there?

6 A. I do.

7 Q. This appears to be the same type of
8 documents that we just looked at for Mr. Slack; is
9 that correct?

10 A. Yes.

11 Q. All right. And just for the -- just for
12 the record, looks like we've got sequential pages
13 from D010294 through D010300, right?

14 A. That's correct.

15 Q. Okay. A couple questions about this.
16 We're not going to go over the -- all the -- the
17 terms that we previously went over, but I wanted to
18 ask you about a couple of things. First of all, on
19 the first page, D010294, down on line 13, it appears
20 that Mr. Dublinski, which is the client, the
21 plaintiff that is being referenced here, correct?

22 A. Yes.

23 Q. That he was being paid under a 3E matrix,
24 correct?

25 A. Yes.

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1 Q. All right. On line 14 -- and by the way,
2 it looks like he had been paid under 3E, going back
3 up to line 3, which was sometime in 2003, correct?

4 A. Yes.

5 Q. All right. On line 14, it appears that
6 there was a change to 3EW2, and you told me that that
7 was a recently added matrix, correct?

8 A. No, I didn't.

9 Q. Oh, I'm sorry. What was the one we were
10 just talking about?

11 A. WA3E.

12 Q. Oh. Oh, I'm sorry. Anyway, at some
13 point, he was switched to 3EW2, correct?

14 A. Yes.

15 Q. And that applies to line 14 and 15,
16 correct?

17 A. Yes.

18 Q. All right. My confusion is, again, over
19 on the effective date. It appears that the last --
20 on line 15, whereas before, that was blank, we have
21 an effective date entered there on line 15 of April
22 14th of '09.

23 A. Go on to the next page.

24 Q. Okay. Oh, okay. I'm sorry. That
25 explains it. There's another page. So going --

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1 okay. That answers my question. So going down to
2 line 18, the effective date of whatever that status
3 change was, was May the 28th of '09; is that the way
4 I would read that?

5 A. Yes.

6 Q. Okay. So the May 28th of '09 would apply
7 to line 18, correct?

8 A. Yes.

9 Q. As when that came into effect?

10 A. From what I can tell on the screen, yes.

11 Q. Okay. All right. That's what I needed
12 to know. When this -- on line 14, do you know when
13 the 3E -- what -- what is the 3EW2? That's specific
14 for Grandview, I believe you told me, correct?

15 A. Yes.

16 Q. All right. Do you know when that matrix
17 was created?

18 A. No, I don't.

19 Q. Okay. Looking over the third page in the
20 exhibit -- it's page 296. Under -- or over on line
21 11, that's where we see the position codes. Do you
22 see those?

23 A. Yes.

24 Q. We have a new one, it appears to be
25 "LMEXDE." What does that stand for?

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1 A. I'm assuming it's Hermiston, Oregon, like
2 it says in the comments next to it.

3 Q. Hermiston?

4 A. Hermiston, Oregon.

5 Q. Hermiston, Oregon. All right. Is
6 Hermiston, Oregon a Wal-Mart dedicated terminal such
7 as Grandview?

8 A. Not existing today.

9 Q. Okay.

10 A. That I -- that I'm aware of.

11 Q. Okay. All right. When -- do you know
12 when that one stopped being an active terminal?

13 A. No, I don't.

14 Q. Okay. Well, help me out with line 13.
15 Is he working -- is -- on line 13, is he still
16 working in the Oregon terminal, or is -- it looks
17 like he's got a new position code of GVEXWM; is that
18 a printing issue again?

19 A. Yes.

20 Q. Okay.

21 A. I would need to see that HR paperwork to
22 follow the dates exactly.

23 Q. Okay. Because we've got three lines
24 there, 13, 14, and 15 that have that position code,
25 but 13 is 3E and the other two are 3EW. Do you -- do

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1 you know, can you explain that for me?

2 A. No, I can't.

3 Q. Okay. Maybe you told me, but I -- I
4 don't remember on the previous one. Where it says,
5 "ST10" under -- for instance, at the top of the page,
6 under 11, what does that stand for?

7 A. Stop pay.

8 Q. Okay. I got ya. Down at the bottom,
9 it's got "SW10." What does that stand for?

10 A. That's also stop pay.

11 Q. Okay. Do you know what the difference is
12 between those?

13 A. At some point, for Wal-Mart, they made a
14 change on the stop pay. SW means it's a Wal-Mart
15 stop matrix.

16 Q. I got ya. Okay. And based on our issues
17 with the lines there, you can't tell me when that
18 occurred?

19 A. No, I can't.

20 Q. Okay. All right. Look over on page
21 D010298. Again, we have the package details which
22 was the Lotus file, correct?

23 A. That's correct.

24 Q. And on the next page, does -- does the
25 next page reflect the AS/400 version of the Lotus

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1 package details?

2 A. Yes.

3 Q. All right. And, again, we see this pay
4 matrix is for a position -- well, this is a pay
5 matrix of 3EW2. We've said that's Grandview,
6 correct?

7 A. Yes.

8 Q. Or is that just Washington? Is it
9 specific for Grandview?

10 A. Yes.

11 Q. Okay. And the position is specific for
12 Grandview as well, correct?

13 A. That's correct.

14 Q. All right. With an effective date of
15 April 1st, 2004. And an update of March 7th --

16 A. Yes.

17 Q. -- 2012, which you say is the date the --
18 the date it was entered?

19 A. Into the AS/400, yes.

20 Q. Is it -- make sure I'm clear. Before
21 March 7th of 2012, was there a screenshot like we see
22 here that was intended to duplicate the Lotus pages?

23 A. No.

24 Q. Okay. I thought that's what you said. I
25 just want to make sure I'm clear. And I believe the

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1 next page, the last page is the same as -- same --
2 same basic details as the previous, Mr. Slack's,
3 correct?

4 A. Yes, for short haul.

5 Q. All right.

6 (Exhibit 8 was marked for identification.)

7 MR. LANE: This one we may need to put
8 the pages -- I think the pages may be out of order,
9 but, so. Looks like I've got --

10 MS. BRONCHETTI: You want them numbered?

11 MR. LANE: Two, three and four are out of
12 order. Sorry. Okay. Yeah, that does it.

13 BY MR. LANE:

14 Q. Let me show you what we've marked as
15 Exhibit No. 8 to your deposition, Mrs. Koogle. Can
16 you tell me what -- what that first page on that
17 document represents?

18 A. Henry Ledesma's pay status rate history
19 screen.

20 Q. Okay. Like the previous client --
21 plaintiff's, correct?

22 A. Yes.

23 Q. All right. We appear to have some
24 different matrices here, and I wanted to go over
25 those. WCSL, what is that?

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1 A. WCSL is a matrix that's used for casually
2 driving employees.

3 Q. Okay. Is that specific for Washington?

4 A. No.

5 Q. It is not. Okay.

6 A. That's West Coast casual.

7 Q. West Coast casual. Okay. WCSLE?

8 A. West Coast casual empty.

9 Q. Empty?

10 A. Empty.

11 Q. Empty, yes. And then, again, we -- then
12 we see down below there, somewhere around 2012, we
13 have a -- the matrices we've already talked about,
14 3EW2, WA3E, and WA3EE, correct?

15 A. That's correct.

16 Q. And, yes. Let's look at the next page,
17 D010302. What is Mr. Ledesma, plaintiff in this
18 case, what is his -- what's his -- up at the top,
19 under line 21, we have a driver code of IG- -- I'm
20 sorry, not a driver code, a position code of IGDM2W?

21 A. He -- it seems as if he was a Grandview
22 Washington driver leader, so when he was an office
23 employee.

24 Q. Okay. And how was -- what was his --
25 based on this, what was his method of payment? Is he

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1 a mileage base pay?

2 A. Yes.

3 Q. Okay.

4 A. When driving on the driver side.

5 Q. Okay. Down on line 25, it appears he has
6 a hire date of April 28th of '04; is that correct?

7 Line 25 or -- see where it says "H DT"?

8 A. It says "042804"?

9 Q. Yes. Is that his hire date?

10 A. I assume so, yes.

11 Q. Okay. Now, looking at the other
12 positions here, we've talked about GVEXWM, correct?
13 That's Grandview specific?

14 A. Grandview mileage -- mileage, yes,
15 Wal-Mart.

16 Q. Grandview experienced Wal-Mart
17 mileage-based, correct?

18 A. Right.

19 Q. GVCAWM, is that Grandview casual?

20 A. That's correct.

21 Q. Wal-Mart dedicated?

22 A. Yes.

23 Q. Okay. Same thing for the next one and
24 the next one, correct?

25 A. That's correct.

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1 Q. All right. But all of those are still
2 mileage-based pay positions, correct?

3 A. Yes, yes.

4 Q. All right. Well, when did he change from
5 -- if you can help me out, looking at the first page,
6 when did Mr. Ledesma change from a West Coast casual
7 pay matrix to a Wal-Mart Washington specific pay
8 matrix, 3EW2?

9 A. On line 23?

10 Q. I understand. But what would have been
11 the date based on our understanding of -- of how
12 those lines work? Would the date that that came into
13 effect would be April 29th, 2011?

14 A. That's correct.

15 Q. Okay. Now, the positions that are listed
16 on the next page, D010302, are those all Washington
17 positions?

18 A. Yes, they seem to be.

19 Q. Okay. Would there be any way of
20 accounting for why he's -- well, is the West Coast --
21 the West Coast casual driver matrices that we were
22 talking about, are those specific for Washington or
23 is that number of states in the west?

24 A. That's the west -- the whole West Coast.

25 Q. Okay. Do -- is there any way, based on

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1 that pay matrices, for drivers who are in a
2 Washington position to be making a higher mileage
3 rate, all things being equal, to drivers who are
4 under this pay matrices in non-Washington positions?

5 MS. BRONCHETTI: Objection; assumes facts
6 not in evidence, vague and ambiguous, compound.

7 BY MR. LANE:

8 Q. Okay. Well, I'll break it down. I -- I
9 thought maybe we could cover several points at once.
10 But WCSL applies not only to Washington, that pay
11 matrix not only applies to Washington drivers,
12 drivers in Washington holding and Washington
13 positions, but also drivers in other western states,
14 correct?

15 A. That's correct.

16 Q. If Mr. Ledesma is working in any of these
17 positions we see on page 302, those are all
18 Washington-based positions, correct?

19 A. Yes, they are.

20 Q. And on several -- a couple of those
21 items, he's -- he's being paid under a non-Washington
22 specific pay matrix, correct?

23 A. Just the West Coast casual matrix.

24 Q. Yes, exactly. So my question is: How
25 would he be making more under the West Coast, as far

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1 as mileage rate, how would he be make -- making more
2 in a Washington position than any other driver in a
3 non-Washington position, all things being equal?

4 A. All things being equal, it would be the
5 same rate.

6 Q. Okay. A new -- new page that we've got
7 here, D010304, and I think we've talked about one of
8 these before. It's a position request, apparently.
9 Do you see that?

10 A. Yes.

11 Q. What is that about? What's the purpose
12 of this and how was it used?

13 A. I have no idea. I didn't provide this.

14 Q. Okay.

15 A. It's an HR document.

16 Q. Okay. Page D010307. Again, that's the
17 same package detail that we talked about previously,
18 correct?

19 A. That's correct.

20 Q. Okay. And the next page is a -- is
21 a -- what do you call that, the 400 --

22 A. The AS/400?

23 Q. AS/400 representation of that pay
24 package, correct?

25 A. Yes.

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1 Q. All right. I want to call your attention
2 to D010311. Do you see that one?

3 A. Yes.

4 Q. Now, the position is GV casual Wal-Mart,
5 correct? Grandview casual Wal-Mart?

6 A. Yes.

7 Q. The pay matrix is WM3E or WM3E empty,
8 correct?

9 A. Yes.

10 Q. This has an effective date of September
11 1st, 2011; whereas, some of those previous ones I
12 think had an effective date of April. Do you know
13 why -- what -- what the significance of that
14 September 1st, 2011 -- well, we did talk about that
15 before, correct?

16 A. Yes, we did in Slack.

17 Q. And that was where you said you'd done
18 your -- I got you. I'm sorry. Never mind. That was
19 done for -- for the reason that you said that you --
20 you increased the starting mileage rate?

21 A. That is correct.

22 Q. Okay.

23 A. September 1st, 2011.

24 MR. LANE: I think these are in order.

25 (Exhibit 9 was marked for identification.)

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1 BY MR. LANE:

2 Q. I'm going to show you what we've marked
3 as Exhibit No. 9, Mrs. Koogle. This appears to be
4 the same type of information that's provided for
5 plaintiff, Richard Erickson, correct?

6 A. That's correct.

7 Q. Okay. Now, I just want to call your
8 attention to the second page, D010189, line 10. I --
9 there's a position down there I don't think we've
10 talked about. I believe we've talked about the other
11 position, haven't we?

12 A. Uh-huh.

13 Q. I GECTW, what is that?

14 A. He's an also office casual, or was at
15 this time, Grandview, Washington extended coverage
16 team.

17 Q. Okay.

18 A. Office employee.

19 Q. Okay.

20 A. And then drives casual.

21 Q. All right. But still under the same 3EW2
22 pay matrix, correct?

23 A. Yes.

24 Q. For all of those positions, correct?

25 A. Yes.

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1 Q. That was a fast one.

2 MS. BRONCHETTI: I know. I like it.

3 MR. LANE: My trusty assistant provided
4 me with a summary sheet on the front of each one of
5 these, but it's more of a nuisance.

6 (Exhibit 10 was marked for identification.)

7 BY MR. LANE:

8 Q. Exhibit No. 10 to your deposition,
9 Mrs. Koogle. Take a look at that. Is that the
10 payroll status for Mr. -- for plaintiff, Jacob
11 Grismer?

12 A. Yes.

13 Q. Okay. I don't see any new pay matrices
14 that we haven't talked about on his sheet, and I -- I
15 believe that we talked about the positions, but I
16 wanted to ask you, LMEXDE. What was that again?

17 A. Hermiston, Oregon.

18 Q. Okay. Based on the information you have
19 in front of you, can you tell me when he changed to
20 the Grandview experienced Wal-Mart position?

21 A. I wouldn't be able to say because of the
22 way it's printed.

23 Q. I got you. I can't either, that's why --
24 okay. All right.

25 MR. LANE: Let 's move on to the next

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1 one.

2 (Exhibit 11 was marked for identification.)

3 BY MR. LANE:

4 Q. This will be Exhibit No. 11 to your
5 deposition, Mrs. Koogle. Can you identify that for
6 me?

7 A. Gary -- employee, Gary Roberts, status
8 changes.

9 Q. Okay.

10 A. Payroll status changes.

11 Q. All right. And, again, this appears to
12 be one of those where we've got the zeros up in the
13 first column. I'm not really sure what that means
14 under the effective date, but -- but we've talked
15 about those pay matrices, though, correct?

16 A. That's correct.

17 Q. All right. And it appears that his -- he
18 has been in the same position during the reported
19 time at the Grandview experienced Wal-Mart position,
20 correct?

21 A. It looks as if he's always been in
22 Grandview.

23 Q. Correct. Yes, starts at line 1, correct?

24 A. Yes.

25 Q. What's his hire date? December 14th of

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1 '05?

2 A. I'm assuming that's his hire date.

3 Q. Well, I'm looking at line 4 on the second
4 page.

5 A. I didn't say for sure that was hire date,
6 though.

7 Q. Okay.

8 A. I'm assuming that's hire date.

9 Q. Okay. And we have a "T Dt," which I
10 believe is the termination date of 10-29-11, but
11 we'll -- we'll get that confirmed somehow else.
12 Under the 3EW2 AS/400 representation of the pay
13 package, again, it appears to show the effective date
14 of April 1st, 2004, correct?

15 A. Right.

16 Q. All right. And you don't know where that
17 date comes from?

18 A. I do not.

19 Q. Okay. Maybe I asked you, but do you --
20 can you tell me again who entered the information on
21 the AS/400 screen we were talking about?

22 A. Which would be page?

23 Q. 317.

24 A. It's -- see the user on the right side,
25 ESLIHE?

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1 Q. Okay.

2 A. It's got the date, time, and then user.
3 That's her user code.

4 Q. And that's someone in payroll?

5 A. Yes.

6 Q. Okay.

7 A. She just did the data entry and keyed in
8 the screen.

9 Q. I got you. I -- I guess I'm trying to
10 figure out how we -- you -- I think you indicated you
11 know where the 9-1-2011 effective date came from on
12 some of these representation -- these AS/400 pay
13 package representations, but you don't know where the
14 April 1st, 2004 date came from, correct?

15 A. No, I don't.

16 Q. Okay. Now, each one of these we've
17 looked at and we've talked about are -- are pay
18 positions during the applicable claims period going
19 back to July 18th of 2008, correct?

20 A. Yes.

21 Q. Okay.

22 (Exhibit 12 was marked for identification.)

23 BY MR. LANE:

24 Q. Exhibit No. 12. I'm handing you Exhibit
25 No. 12 to your deposition. Can you identify that one

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1 for me, please?

2 A. Dennis Stuber. Employee Dennis Stuber's
3 status changes -- payroll status changes.

4 Q. Okay.

5 MR. LANE: Thank you.

6 MS. BRONCHETTI: What is this, 12?

7 THE WITNESS: Yes.

8 MR. LANE: Yeah, that's -- yes, 12.

9 BY MR. LANE:

10 Q. Okay. Looking at the first two pages, it
11 appears that we've talked -- well, no, we've got a --
12 we've got a different pay matrix here we need to talk
13 about, I suppose. It -- it goes back to 2003, but it
14 appears that there is a pay matrix entitled, "DCH."
15 What does that stand for?

16 A. That's for a Costco Heavy-Haul.

17 Q. Okay.

18 A. It's a dedicated Costco Heavy-Haul.

19 Q. And what position would he -- he be
20 working in for that pay matrix?

21 A. It doesn't apply to him during the time
22 period requested, but that would be a Costco
23 Heavy-Haul position code.

24 Q. Okay. In -- in either Seattle or Sumner?

25 A. Costco Heavy-Haul operates in multiple

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1 West Coast locations.

2 Q. Okay. I got you. And then as of April
3 sometime -- sometime in 2004, early 2004, he switched
4 to the 3EW2 matrix, correct?

5 A. Yes.

6 Q. And he was on that, as far as we know, up
7 to the present time?

8 A. That's correct.

9 Q. All right. And that was in a Grandview
10 experienced driver, a Wal-Mart dedicated position,
11 correct?

12 A. That's correct.

13 Q. Okay. Sorry.

14 (Exhibit 13 was marked for identification.)

15 BY MR. LANE:

16 Q. Show you Exhibit No. 13. Can you
17 identify that for me, please?

18 A. Employee status change history for
19 Timothy Helmick.

20 Q. Okay. And, again, just for my benefit,
21 because I -- I understand it may not apply during the
22 claim period, but it appears to be a pay matrix on
23 the first page that's different than what we've seen
24 before. "COMF" and a "COMF1" and a "COMF2." Do you
25 see that?

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1 A. Yes, I do.

2 Q. What are those?

3 A. They don't apply because they're out of
4 Corinne, Utah.

5 Q. Okay.

6 A. Those are for a Utah location, Wal-Mart
7 location.

8 Q. Okay. Those are Wal-Mart dedicated
9 Corinne, Utah?

10 A. Yes.

11 Q. Pay matrices?

12 A. Pay matrices.

13 Q. Okay. And do those pay matrices still
14 exist? Are they still being used?

15 A. For certain employees, yes.

16 Q. Okay. And then 3EW2, which apparently he
17 started in June of 2005? If I'm reading -- if I'm
18 reading it according to our understanding of the
19 dates.

20 A. Yes.

21 Q. That -- that -- is that the Grandview
22 specific pay matrix?

23 A. Yes.

24 Q. Okay. And he's apparently been on that
25 pay matrix, as far as we know, up till now, correct?

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1 A. Yes.

2 Q. The -- on the second page where we see
3 the -- the positions, there's a new one there. I
4 wanted to ask you about that. WMEXCO in the last
5 line, 15, what position is that?

6 A. Corinne, Utah, Wal-Mart experienced.

7 Q. Okay. And do you know why he's being
8 paid, at least as far as I can see, under a Grandview
9 Washington specific pay matrix with a driver position
10 in Utah?

11 A. I am not sure. Is he still employed?

12 Q. I don't see -- on my little termination
13 date -- as of the time of printing this, I -- I --
14 I'm not aware of a termination date, so I -- I'm
15 relying on the document. I can't really tell you off
16 the top of my head.

17 A. It -- actually, the matrix that goes with
18 Corinne, Utah is on the next page.

19 Q. Oh, it is?

20 A. The WALD, WAEM.

21 Q. I see.

22 A. Is for the Corinne, Utah record.

23 Q. Okay. Okay. So is the way you're
24 supposed to read this second page that we've been
25 talking about is to apply the -- the top lines of

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1 what we've been thinking of, the lines that go
2 with -- in other words, you look at what's above line
3 15 to tie it up with line 15; is that your
4 understanding? I'm just trying to figure out why
5 this is so messed up.

6 A. I -- I don't know.

7 Q. You don't know?

8 A. I wouldn't have -- like I said, I
9 wouldn't have printed it this way.

10 Q. Okay.

11 A. Because it wrapped in three lines.

12 Q. As far as these pay matrices is -- are
13 concerned, WMEXCO, the Corinne, Utah Wal-Mart pay
14 matrices, when was that created?

15 A. Is that the position code you're talking
16 about?

17 Q. I'm sorry, the position code. Yes. When
18 was that -- is that -- do you know when that position
19 code was created?

20 A. I'm not sure.

21 Q. How about the pay matrices on WAEM and
22 WALD?

23 A. I am not sure.

24 Q. Okay. Is it -- has it been recent or has
25 it been there as long as you are aware?

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1 A. We purchased Corinne -- we acquired a
2 Corinne, Utah location in 2003 with an acquisition,
3 so I am not sure if that matrix, WALD, was part --
4 was created back in 2003 when we acquired Corinne or
5 when.

6 Q. Okay.

7 A. I would have to have the matrix in front
8 of me.

9 Q. Okay. All right.

10 (Exhibit 14 was marked for identification.)

11 BY MR. LANE:

12 Q. Let's look at number -- Exhibit No. 14 to
13 your deposition. Can you identify that for me?

14 A. That is Robert Ullrich. Employee Robert
15 Ullrich's pay status changes.

16 Q. Okay. There appears to be on the first
17 page for Mr. Ullrich a -- well, let me ask you this.
18 The driver code up there is a little unusual. Do you
19 see that?

20 A. Yes.

21 Q. Do you -- do you know why he doesn't have
22 a number?

23 A. Yes.

24 Q. Why is that?

25 A. Years and years ago, we used -- all of

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1 our driver codes were alpha.

2 Q. Okay.

3 A. And I don't remember what year it was
4 they converted to employee numbers that were numeric.

5 Q. I see.

6 A. So our old drivers that have been with
7 Swift for a long time, we didn't change their driver
8 code.

9 Q. I see.

10 A. So all the history would stay the same.

11 Q. Okay. And apparently, he was here
12 sometime before or around 2002, correct?

13 A. Right.

14 Q. Up until -- I -- if I'm looking at it
15 right -- I'm sorry. I have to draw this out for
16 myself. On the first page, I'm looking at the pay
17 matrices that he's been paid under, predominantly
18 under 3E and 3EE, correct?

19 A. Yes.

20 Q. For most of the years. And then -- and
21 the end of 2006, he's -- his pay matrix changed to
22 3 -- C3E. You see that?

23 A. Yes.

24 Q. What's C3E?

25 A. It's -- that's a matrix that's under

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1 multiple positions, but it applied, it looked like,
2 to the Willows, California terminal. You can see
3 that on page 374.

4 Q. Okay.

5 A. The line 13, LWEXVN.

6 Q. Okay. Okay. Good. Well, that blows my
7 theory about which line applies to what.

8 Then he's back, apparently, in -- after
9 that period in California being assigned to that
10 terminal, he's back in Grandview, correct?

11 A. Yes.

12 Q. All right. And he's being paid under 3E
13 and 3EEM initially, 415? I'm sorry. As of 3/09/08,
14 he was being paid under 3E and 3EEM, correct?

15 A. Yes.

16 Q. All right. And then he -- then he was
17 switched to 3EW2, correct?

18 A. Right. When he moved to Grandview.

19 Q. Well, where was he when he was being paid
20 under 3E and 3EEM?

21 A. 3E and 3EEM. It's hard to tell from this
22 page, but it looks like the 3 -- it was either
23 Hermiston, Oregon or Willows, California.

24 Q. Okay. Well, I'm looking at -- and,
25 again, I'm looking at 374, second page. We looked at

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1 line 13 and we associated that with the next line,
2 which was the -- the California position, correct?

3 A. I'm not -- I'm not sure which one it
4 belongs to looking at the positions here.

5 Q. Because it appears that he's -- the only
6 other location is Grandview for -- for each of the
7 next two matrices, correct?

8 A. But it could be that 3E applies to
9 Wilmington -- or Willows, California, and C3E applies
10 to Hermiston, Oregon. I would have to look at his --
11 his personnel action transactions, because I know 3E
12 has never applied to Grandview -- to a Grandview
13 position.

14 Q. Okay. All right. Okay. Well, that was
15 what was throwing me off because we associated
16 California with 3CE -- or C3E, and you're saying that
17 may be the one above, correct?

18 A. I -- yeah, I would have to look further
19 into his records.

20 Q. Okay. All right.

21 (Discussion off the record.)

22 MR. LANE: Okay. I think they're in
23 order. What was the last one I gave you?

24 THE WITNESS: 14.

25 MR. LANE: Okay.

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1 THE WITNESS: That's my sticker.

2 MS. BRONCHETTI: This says 15, Ullrich.

3 THE WITNESS: Yeah, I haven't got a 15.

4 MS. BRONCHETTI: All right. I'm wrong.

5 THE WITNESS: Huh?

6 MS. BRONCHETTI: You have them all, so...

7 THE WITNESS: 9, 8, 7, 6, 5. I have them
8 in order.

9 MS. BRONCHETTI: All right.

10 THE WITNESS: 10, 11, 12, 13.

11 (Exhibit 15 was marked for identification.)

12 BY MR. LANE:

13 Q. Okay. Let's look at what we've marked as
14 Exhibit No. 15. Can you identify that for me?

15 A. It's the payroll status changes for
16 Employee Sean Forney.

17 Q. Okay. This appears to have a different
18 set of pay matrices associated with this. Can you --
19 can you describe or define those for me that are on
20 the first page of 320?

21 A. SL450 is the student salary pay --

22 Q. Now, previously --

23 A. -- matrix.

24 Q. I'm sorry. Previously, we had sent a --
25 seen -- seen a rate down there of SL350. Is there --

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1 do you know what the explanation is between the 350
2 and the 450?

3 A. For salary -- for salary paid students,
4 this matrix doesn't apply to that. No one sees that
5 matrix except for payroll. That doesn't apply to the
6 rates that are paid.

7 Q. Okay. But I guess what I'm asking is:
8 Is there a difference between the SL450 and SL350?

9 A. There's no rates tied to that code.

10 Q. Okay. I -- I guess what I'm saying is:
11 What is the difference between the pay matrix or
12 the -- or the -- why do you have two different codes?
13 Maybe that's the way to ask it.

14 A. At my beginning of employment at Swift,
15 they had a salary rate of -- a different salary rate
16 for students that was for all students nationwide.
17 It was a lower rate. And I don't know the year they
18 increased the rate, the salary pay rate, and so
19 that's when the new matrix was assigned to it.

20 Q. Just the -- the -- the name that was
21 applied to --

22 A. Yes.

23 Q. -- to the -- to that class of pay?

24 A. Of students, yes.

25 Q. Okay.

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1 A. I don't know the date, though.

2 Q. Okay. All right. And then go ahead.

3 DCH, what is that?

4 A. That's the Costco Heavy-Haul again.

5 Q. Okay.

6 A. And then DCHEM is the Costco Heavy-Haul
7 empty.

8 Q. Okay. What positions do those pay
9 matrices apply to? Are those specific for
10 Washington?

11 A. The DCHW and DCHWE are.

12 Q. That's the last two?

13 A. Yes.

14 Q. Okay.

15 A. So he was -- he was in Sumner, Washington
16 the whole time, and you can see the date over there,
17 9-1 of '11.

18 Q. Right.

19 A. Is when we changed it to a -- a specific
20 Washington matrix.

21 Q. All right. And can you tell me why there
22 was this -- was that when the DCHW and DCHWE was
23 created?

24 A. Yes.

25 Q. And was that created for the same reason

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1 that you gave me before, for -- for the changes that
2 occurred on September 1st, 2011?

3 A. Yes.

4 Q. What was -- what was the basic change
5 that occurred between DCH, DCHEM, and DCHW, and
6 DCHWE?

7 A. It's the -- it was the starting rate,
8 like I had explained previously.

9 Q. Starting mileage rate?

10 A. The starting rate per mile.

11 Q. Okay.

12 A. I don't -- I don't know the exact rates
13 for Costco because I don't have the matrix here in
14 front of me.

15 Q. Okay. Okay.

16 A. But it was -- it was increased because of
17 the change I had talked about previously.

18 Q. Okay. So it changed up, down, what --
19 what did the rate change?

20 A. It increased.

21 Q. Okay. But you don't know how much?

22 A. I don't know the rates.

23 Q. Was the high end also raised?

24 A. I don't recall.

25 Q. Okay. We may have some documents that

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1 will show that. So we'll hopefully get to that.

2 Okay. Looking on the second page, which shows us our
3 position -- positions, these are all Washington
4 positions, you said?

5 A. Yes.

6 Q. And that's -- that's for Sumner,
7 Washington?

8 A. Yes.

9 Q. Okay. And it's Costco -- Costco
10 experienced?

11 A. Yes.

12 Q. Now, down -- down on the last -- what I
13 think is, well, the last three lines, we have a -- a
14 position code of SCTRD1. What is that?

15 A. That means he was moved into a Costco
16 Heavy-Haul Sumner, Washington mentor position. He
17 was a level 1 trainer, mentor.

18 Q. I got you. And -- and -- and I -- what
19 that means is that in the event that he is mentoring
20 someone, he gets extra pay for that, correct?

21 A. The level 1 mentors do not. Level 2 and
22 a senior level mentor do get an extra -- or an extra
23 rate.

24 Q. Okay. Does -- does that general policy
25 apply for drivers whether they are in -- mentors, I'm

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1 talking about, whether they are working out of a
2 Washington position or -- or other states?

3 A. Yes.

4 Q. It does?

5 A. The additional rates do.

6 Q. Okay. The same mentoring rates apply
7 across the board, correct?

8 A. The additional -- so they get a penny or
9 two cents more.

10 Q. Uh-huh.

11 A. So their -- their Washington -- the base
12 rates are different.

13 Q. Right.

14 A. Because they're in Washington.

15 Q. Right.

16 A. But the mentor additional rates when you
17 have a student on your truck --

18 Q. Are the same?

19 A. -- are the same nationwide?

20 Q. I got ya. Okay. Help me out. This is
21 sort of a new page. I think we may have seen it
22 before, but I didn't ask you about it. D010323, what
23 is that?

24 A. That's the HR personnel transaction.

25 Q. Are we looking at the same thing?

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1 A. Yeah, 323.

2 Q. Yeah. That's what now?

3 A. It's the human resources personnel
4 transaction that shows the date that the record was
5 entered, is it a new hire, a status change, a rate
6 change, what position was he in, tells us who entered
7 it. This is what's done by our HR department.

8 Q. Okay. I didn't see that for all of them,
9 it just -- but is this -- is this the information
10 that you were talking about previously that -- that
11 would give us the hire date and the -- and all of
12 that?

13 A. Yes.

14 Q. Okay. It doesn't show on the -- it
15 doesn't show on the position sheet that we were
16 looking at, the additional information sheet, but on
17 this sheet, 323, it appears that he was hired to
18 position SUTEDE. Do you see that on page 323?

19 A. Yes.

20 Q. What is that?

21 A. A student Sumner, Washington trainee
22 position.

23 Q. Do you know why that's not -- or did I
24 just miss it?

25 A. No, I don't see it on here either.

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1 Q. Okay.

2 A. I see the matrix, the student matrix, but
3 the position is SCEXDE.

4 Q. Yeah.

5 A. His trainee flag is yes on that page 321.

6 Q. Okay. Right. Okay. That just
7 further -- further confuses us on that page, I think.
8 Okay. Looking down on that same page, 323, under
9 description, do you know where it says
10 "Curr/Home/SUTA"?

11 A. Current state, home state, and SUTA
12 state, Washington, Washington, Washington.

13 Q. Okay. And -- okay.

14 A. It's all for tax purposes.

15 Q. Okay.

16 A. To attract wage bases and things.

17 Q. And is that information that's stored on
18 every driver?

19 A. I'm not sure.

20 Q. Okay.

21 A. It's keyed by HR.

22 Q. Do you know who -- who -- who printed
23 this sheet out?

24 A. I don't know.

25 Q. Was there a -- is there a code on here

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1 for a user?

2 A. I'm assuming it's the same user because
3 the dates are the same on the previous pages,
4 "8/22/12."

5 Q. Okay. And this "ROSAVA" user, she's
6 in -- she's in payroll, correct?

7 A. Yes.

8 Q. So this sheet that we're looking at, 323,
9 would be something that payroll has access to?

10 A. We have access to it, yes.

11 Q. Okay.

12 A. We don't key it.

13 Q. Okay. I got you. You can print it out,
14 though?

15 A. Yes.

16 Q. As -- as we see?

17 A. Yes.

18 Q. So when it says "Curr" Washington, what
19 does that mean? What does "Curr" mean?

20 A. Current state. I'm not sure. You would
21 have to ask HR.

22 Q. And same thing for "Home," what does that
23 mean to you?

24 A. I don't know.

25 Q. Okay.

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1 A. I would be assuming.

2 Q. And then you said "SUTA" stands for what?

3 A. The SUTA state, so Social Security.

4 Q. I got ya. Okay. Are those fields that
5 you can search for, those -- those fields we just
6 talked about?

7 A. I -- I don't have the ability to do that.
8 I personally don't.

9 Q. You personally don't?

10 A. No.

11 Q. I mean, is that something that someone in
12 your -- your department could do?

13 A. No.

14 Q. I mean, does IT have to do that or HR?

15 A. Or human -- I'm not sure if human
16 resources would, but HR would (sic).

17 Q. Okay.

18 A. I mean, IT would.

19 Q. IT would, yes. Now, looking over at 325
20 on Mr. Forney's paperwork again, this is the -- what
21 we talked about before, right, where it's the
22 representation of the Lotus pay package?

23 A. Yes.

24 Q. And this is talking about the salary
25 during the time that he's a student, correct?

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1 A. Yes.

2 Q. Where it says, "Pay Rate...: 450.00."
3 Is that \$450?

4 A. Yes.

5 Q. All right. And that's automated, it
6 says, correct?

7 A. The pay rate is automated, yes.

8 Q. Okay. Is that your understanding that's
9 what applied during the time that -- that Mr. Forney
10 was going through the training based on this
11 documentation?

12 A. Yes.

13 Q. Okay. Is there any way for you and
14 payroll to manually change that?

15 A. To manually change?

16 Q. Change that automated function.

17 A. No, it's an IT automated function.

18 Q. Okay.

19 A. The flag on there is us keying it in.

20 Q. Of the yes or no?

21 A. Yes.

22 Q. Okay.

23 MR. LANE: Okay. Time? Break?

24 THE VIDEOGRAPHER: We have like two
25 minutes left.

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1 MR. LANE: Okay.

2 THE VIDEOGRAPHER: This marks the end of
3 Disk 3. Off record at 3:13 p.m.

4 (Recessed from 3:13 p.m. to 3:27 p.m.)

5 THE VIDEOGRAPHER: This is the start of
6 Disk 4 in the deposition of Sarah Koogle. Back on
7 record at 3:27 p.m.

8 (Exhibit 16 was marked for identification.)

9 BY MR. LANE:

10 Q. Mrs. Koogle, I've handed you Exhibit
11 number 16 to your deposition. And I believe this is
12 just a compilation of a number of -- these are
13 sequentially numbered. We'll go through this. It's
14 not any particular grouping, but I -- I think we can
15 -- we can get through it as a composite Exhibit 16.
16 What is the first page we're looking at here?

17 A. It's a pay package.

18 Q. Okay. It has an effective date of
19 September 8th of 2008; is that correct?

20 A. Yes.

21 Q. All right. A unit division number of
22 585, correct?

23 A. That's correct.

24 Q. What does that mean again? What's the
25 unit?

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1 (Cellphone interruption.)

2 THE WITNESS: The unit --

3 THE REPORTER: What was your question?

4 MR. LANE: Sorry.

5 MS. BRONCHETTI: Sorry.

6 MR. LANE: Was that you?

7 MS. BRONCHETTI: Yes.

8 MR. LANE: Oh, I thought it was a
9 doorbell.

10 BY MR. LANE:

11 Q. My question was: What does that unit
12 division number 585 stand for?

13 A. That's the division number for the units
14 that are assigned to this account.

15 Q. The units that are assigned to this
16 account -- account.

17 A. The tractors.

18 Q. Can you explain?

19 A. The tractor -- the truck that the
20 driver -- the driver drives, it's the division that
21 is assigned to Wal-Mart, or division that's assigned
22 to Costco or a flatbed or a Heavy-Haul.

23 Q. Okay.

24 A. It doesn't have anything to do with
25 payroll. It's the unit.

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1 Q. Okay. Looking at -- at -- this has an
2 effective date of September 8, 2008, and it's got
3 "position" down here. You see it down below there?

4 A. Yes.

5 Q. It looks like it has several positions.
6 This is a little different format than what we've
7 seen previously, and that's why I wanted to go over
8 this. What are all those positions? Are -- are
9 those all new positions?

10 A. I don't -- I don't -- I really don't know
11 what they are without the order of what they came in,
12 like, the pages that went before this. Without
13 having the front page that would show me what account
14 it is, it would just be a guess of what the positions
15 are.

16 Q. Okay. Well, WATRW1, have you seen that
17 position before?

18 A. I've seen it before, but we have
19 thousands of position codes. So to know for sure
20 that that's a Wal-Mart position or a Costco position,
21 I wouldn't know off the top of my head. It's a
22 mentor level 1. The "TR" in the middle tells you
23 it's a trainer position.

24 Q. Okay.

25 A. The 1, 2, or S at the end tells you if

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1 it's a level 1, level 2, or a senior trainer
2 position.

3 Q. Okay. Which says the -- the first three
4 of those have that notation, correct?

5 A. Right. The WMCACO is a casual position,
6 but, again, I'm assuming it's Wal-Mart. I don't know
7 for sure. And then W- -- WMEXCO would be a standard
8 mileage experienced.

9 Q. Right. I believe we talked about the
10 WMEXCO previously. That was Corinne, Utah, correct?

11 A. I would have to look.

12 Q. Okay.

13 A. Yes, it is.

14 Q. Okay.

15 A. It's on Timothy Helmick's record.

16 Q. Right. And the WMCACO, based on the --
17 the general way those acronyms work, would it be safe
18 to say that's a casual driver in Corinne?

19 A. It's a casual position.

20 Q. Okay. And Corinne is Wal-Mart, correct?

21 A. Yes.

22 Q. All right. The pay matrices -- the pay
23 matrices that are on the right-hand side, can you
24 explain what is meant by that? It looks like it's
25 WALD.

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1 A. WALD is loaded. WAEM is empty.

2 Q. Okay.

3 A. WA2LD is level 2 mentor loaded, WA2EM is
4 a level 2 mentor empty, and WASLD is senior level
5 mentor loaded, and then WASEM is a senior level
6 empty.

7 Q. Do you know whether or not these pay
8 matrices are location specific?

9 A. Those specifically, no, I don't know.

10 Q. You don't know?

11 A. Without doing research.

12 Q. Okay. The way this -- these package
13 details have been structured, would all of those pay
14 matrices apply that pay rate range of 27 cents to 36
15 cents?

16 A. I would have to look to see.

17 Q. Okay. Look down at the payroll comments.
18 These are comments -- well, are those payroll
19 comments? They're under the payroll comment.

20 A. Yes, they're payroll comments.

21 Q. Okay. Does that explain the relationship
22 between the positions in the pay matrices up above?
23 It says, "Position WMEXCO, WMCACO and W ATRW1
24 assigned to matrix WALD and WAEM," correct?

25 A. Yes.

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1 Q. All right. What does that mean to you?

2 A. That means the standard experience WMEXCO
3 matrix, the casual matrix, and the level 1 mentor --
4 or position, I'm sorry, positions are assigned to
5 those two pay matrices that are at the end of the
6 sentence there.

7 Q. Okay. And, again, when we're talking
8 about the pay matrices for -- that's for
9 mileage-based pay for drivers, correct?

10 A. Yes.

11 Q. Okay. "Position WATRW2 assigned to
12 matrix WA2LD (loaded) and WA2EM," which is empty,
13 correct?

14 A. Right.

15 Q. All right. So that tells you how those
16 are related, correct?

17 A. Right.

18 Q. WATRWS is assigned to matrix WASLD and
19 WASEM. Again, that gives you the relationship or how
20 this package detail is -- the relationship between
21 the position in the matrix, correct?

22 A. That's correct.

23 Q. All right. Okay. But as you sit here,
24 you don't know whether or not this pay rate -- this
25 pay matrix mileage rate range up here applies to all

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1 of those, correct?

2 A. No, I don't.

3 Q. Well, the next page maybe helps us a
4 little bit on that. Do you see page 357?

5 A. Yes.

6 Q. WMEXCO, which is one of our positions on
7 the previous page?

8 A. Yeah.

9 Q. Is -- is this an example of the AS/400
10 representation?

11 A. That's the AS/400 representation for the
12 pay matrix COMF though.

13 Q. Oh, okay. What is COMF?

14 A. That is a -- that was the Corinne, Utah
15 account that was acquired in 2003, and that's the
16 dedicated -- or that's the grandfathered pay matrix
17 that came over in that acquisition.

18 Q. Okay. All right.

19 A. That's why it's not on this front page
20 that you were just going over.

21 Q. Okay. But as of the effective date of --
22 well, let me ask you, when it says the effective date
23 of September 8, 2008, with a pay rate down there of
24 27 cents a mile, is that the pay rate as of 2008 or
25 is it when it was last updated?

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1 A. I don't know.

2 Q. Okay.

3 A. The matrix is what ties the actual
4 effective date. The matrix page. I -- I think we've
5 provided those also.

6 Q. Yeah, we're about to look at those. I
7 just wanted to get through this. I -- I don't see
8 anything that we haven't talked about yet in the
9 subsequent pages. Have you seen anything yet as far
10 as the pay matrix and the positions?

11 A. No, they're all the same.

12 Q. Okay. We've talked about all of those,
13 correct?

14 A. Yep.

15 Q. Okay.

16 (Exhibit 17 was marked for identification.)

17 BY MR. LANE:

18 Q. Let me show you Exhibit No. 17. And the
19 reason I wanted to talk to you about this is, I don't
20 think we've talked about a position request. That --
21 that -- that is apparently what this is?

22 A. Yeah, it was on Erickson or one of the
23 other guys. This is the document that's provided by
24 HR for office employees.

25 Q. Okay. Okay.

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1 A. This is a driver manager Wal-Mart office
2 employee position.

3 Q. Okay.

4 A. We don't see these. I didn't provide
5 this.

6 Q. Okay. All right. Okay.

7 (Exhibit 18 was marked for identification.)

8 BY MR. LANE:

9 Q. I think these are -- these are different
10 pages. I thought they were all the same, but they're
11 not. Well, they're different numbers, but they're
12 the same exhibit, the same thing. Let me show you
13 what I've marked as Exhibit No. 18.

14 MR. LANE: And I'll -- and I'll give you
15 exactly the same thing. It's got a different Bates
16 stamped number on the bottom.

17 MS. BRONCHETTI: It's the same thing?

18 MR. LANE: It's just -- it's the same
19 document. Now, what did I just --
20 what -- what --

21 MS. BRONCHETTI: This is already an
22 exhibit.

23 THE WITNESS: It's in all of these
24 exhibits.

25 MS. BRONCHETTI: Yeah, we've already gone

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1 through this, like, several times.

2 MR. LANE: Well, I -- I think we have. I
3 just wanted to make sure.

4 BY MR. LANE:

5 Q. Did we talk about a pay matrix -- well,
6 yes, we did. The 3EW2, when was that created?

7 A. I can't tell from this sheet.

8 Q. Okay. Yesterday, we marked an exhibit in
9 Ms. Rohwer's deposition, Exhibit No. 3, and I don't
10 believe she could answer the questions about --
11 about -- that I posed from that exhibit, and I wanted
12 to see if I could get you to take a look at that for
13 me.

14 A. Okay.

15 Q. Rohwer Exhibit No. 3. Can you tell me
16 what that is, first of all?

17 A. A pay statement for Gary H. Roberts.

18 Q. Okay. Now, down at the bottom of that
19 statement, what's the -- what's the Bates stamp
20 number on that, by the way?

21 MS. BRONCHETTI: 3037.

22 BY MR. LANE:

23 Q. 3037. There's some fine print, which I'm
24 not going to try to read, but do you know anything
25 about when that information was added?

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1 A. No, I don't.

2 Q. You don't? Do -- do you remember it
3 being added, even though you may not remember when?

4 A. Yes, I do.

5 Q. Do you know who added it?

6 A. Our IT group did.

7 Q. Your IT group did. Was that done within
8 the last year, two years? What --

9 A. I -- I don't know when exactly.

10 Q. Okay. Did your department have any input
11 into the language that was put into that though?

12 A. We did not have any input at all.

13 Q. Okay. Do you know who was responsible
14 for that language?

15 MS. BRONCHETTI: Objection; calls for
16 attorney-client privileged information.

17 BY MR. LANE:

18 Q. Well, do you know if anyone in the
19 company, other than a lawyer, was responsible for the
20 language?

21 A. I wouldn't know that.

22 Q. Okay. Do you know why it was added?

23 A. No, I don't.

24 Q. All right.

25 (Exhibit 19 was marked for identification.)

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1 BY MR. LANE:

2 Q. Let me show you what I've marked as
3 Exhibit No. 19. Can you identify that for me?

4 A. The Swift Transportation linehaul driver
5 pay plan.

6 Q. This says it was revised on -- at the
7 bottom right-hand corner, it's got a revision date of
8 May 23rd, 2012; is that correct?

9 A. Yes, according to the document.

10 Q. Do you know what was -- what was changed
11 from whatever the previous version was?

12 A. I do not because this is not complete.

13 Q. Okay. What should go with that? I may
14 have it here.

15 A. The --

16 Q. I just don't know what goes with it.

17 A. That right there. You're holding it in
18 your hand, in your left hand.

19 Q. Okay.

20 A. It's the one with the effective date
21 April 27th, '09 at the top.

22 Q. From what I can see, it says, August
23 25th, effective August 25th. Let's see if I can find
24 one with a description.

25 A. No, there's a one effective 4/27/09.

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1 Q. Tell you what I'll do, I'll hand you
2 everything I've got.

3 MR. LANE: We'll mark it, and I'll hand
4 you everything I've got, and you can help me sort it
5 out.

6 (Exhibit 20 was marked for identification.)

7 BY MR. LANE:

8 Q. Exhibit No. 20, can you tell me what that
9 is?

10 A. It's the linehaul driver pay plan that
11 was effective December 1st of '06.

12 Q. I'm sorry, tell me that again, please.

13 A. Linehaul driver pay plan, effective date
14 Jan- -- or December 1st of '06.

15 Q. I think I may have given you my last
16 copy. We marked one yesterday, I think, and I don't
17 have any more copies. Can I look at that?

18 A. Uh-huh.

19 Q. Now, do -- looking at Exhibit No. 20 --

20 MS. BRONCHETTI: Wait. I'm sorry, I need
21 to have a copy of that. If you don't have one --

22 MR. LANE: I handed you a copy. That's
23 it.

24 MS. BRONCHETTI: Well, no, and you -- but
25 then you took the witness' copy.

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1 THE WITNESS: We're sharing.

2 MR. LANE: I'm sorry. Okay.

3 MS. BRONCHETTI: So --

4 MR. LANE: There's probably one in this
5 stack, and I think we marked it yesterday.

6 MS. BRONCHETTI: All right. I have one.

7 MR. LANE: You do? Here, why don't you
8 use this one, just in case I get the urge to write on
9 it. Thank you.

10 BY MR. LANE:

11 Q. Okay. We're looking at Exhibit No. 20,
12 correct?

13 A. You have document 225 at the bottom?

14 Q. Yes.

15 A. Yes.

16 Q. And -- and a second page, 226, correct?

17 A. That's correct.

18 Q. Okay. What is this? This is a linehaul
19 driver pay plan?

20 A. That's correct.

21 Q. And it was effective 12-1-2006?

22 A. Yes.

23 Q. Did -- did this pay plan apply to any
24 Washington assigned or Washington positioned Swift
25 drivers when it was effective in 2006?

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1 A. Washington mileage paid?

2 Q. Yes, Washington mileage paid.

3 A. Yes.

4 Q. Which mileage-paid Washington drivers did
5 it apply to?

6 A. It applied to numerous drivers.

7 Q. Okay. Which ones did it not apply to who
8 were paid by the mile?

9 A. I would have to do an individual check,
10 but Wal-Mart, for sure, Costco, Heavy-Haul, for sure,
11 and I'm not sure who else.

12 Q. Okay. The rest of the linehaul drivers
13 driving in Washington assigned to Washington
14 positions, this would apply to?

15 A. Yes.

16 Q. Okay. Is there any indication on this
17 sheet for the mileage rates that would indicate that
18 Washington assigned or positioned drivers were being
19 paid more in the mileage rate than other drivers that
20 this applied to who were not Washington-positioned
21 drivers?

22 A. No.

23 Q. Okay. Are you aware of anything that
24 would have documented that distinction?

25 MS. BRONCHETTI: Objection; overbroad,

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1 vague.

2 BY MR. LANE:

3 Q. Are you aware of any documentation during
4 this time, effective 12-1-2006, that would have
5 documented Washington mileage-based drivers, linehaul
6 drivers, who were making more per mile different than
7 what we see on this scale right here?

8 A. More per mile for what?

9 Q. Well, that would be -- that would -- that
10 would show a different mileage rate, all things being
11 equal, for -- because they were Washington-positioned
12 drivers?

13 MS. BRONCHETTI: Objection; vague,
14 overbroad.

15 BY MR. LANE:

16 Q. Do you understand -- I'm asking you,
17 you've indicated that on Exhibit No. 20, that there
18 is no different set of -- of mileage rates that apply
19 to the Washington-assigned drivers, correct?

20 A. Correct.

21 Q. They would be paid under the same matrix
22 that -- this same matrix that
23 non-Washington-positioned drivers would be paid on,
24 correct?

25 MS. BRONCHETTI: Objection; misstates,

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1 overbroad, incomplete hypothetical.

2 BY MR. LANE:

3 Q. In terms of the mileage pay plan, was
4 there different mileage pay plan than the one we see
5 here of the linehaul driver pay plan that applied to
6 Washington-positioned drivers who were doing the same
7 linehaul driver position?

8 A. Repeat your question.

9 Q. Is there something that we don't know
10 about that would show a different mileage range, mile
11 rate range for Washington-positioned drivers during
12 this effective period of 12-1-2006?

13 A. No.

14 Q. Okay. So they would be paid the same,
15 all things being equal, experience level being the
16 main factor over here in terms of the mileage rate,
17 correct?

18 MS. BRONCHETTI: Objection; incomplete
19 hypothetical.

20 BY MR. LANE:

21 Q. Am I reading the -- am I reading the form
22 correct when it -- when I -- when it shows that the
23 driving experience on the left-hand column of this
24 matrix is the primary variable that determines which
25 mileage rate applies to each driver in each one of

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1 these zones?

2 MS. BRONCHETTI: Objection; overbroad,
3 vague.

4 BY MR. LANE:

5 Q. Can you answer the question?

6 A. No.

7 Q. Is there --

8 MS. BRONCHETTI: Joe, let me help --
9 here's my problem, and I'm not trying to be
10 difficult, but we've -- we've spent hours today going
11 over these pay plans, and the way your question is
12 phrased is you're saying that, quote, "All things
13 being equal, people are going to be paid the same."
14 Sarah has spent hours today testifying about all the
15 additional pay that is on top of the mileage-based
16 rate.

17 MR. LANE: Yeah, that's not what we're
18 talking about, and you know, I'm talking about the
19 mileage rate.

20 MS. BRONCHETTI: No, I don't. From your
21 question, I don't.

22 MR. LANE: Okay.

23 MS. BRONCHETTI: That's the problem.
24 That's why I'm objecting.

25 MR. LANE: I mean, I prefaced -- I

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1 included -- that was in every question I asked, I was
2 talking about the mileage rate. I said mileage rate.

3 MS. BRONCHETTI: But then you said, "All
4 things being equal, are they paid the same?" And
5 that's not a fair question.

6 MR. LANE: Okay. Let's break it down
7 because I want to be fair.

8 BY MR. LANE:

9 Q. A driver in Washington who you've told me
10 that these -- this linehaul driver pay plan would
11 apply to, if he's driving out of Washington and he's
12 got three -- three months of experience, would he
13 make a different mileage rate than a non- -- a
14 California linehaul driver driving for Swift with the
15 same experience level?

16 A. Based on the other variations, he
17 possibly could.

18 Q. Based on what?

19 A. Length of haul.

20 Q. No, no, no. I -- I'm talking about the
21 same mileage, the same -- every -- I'm looking at the
22 matrix. With regards to the variables on this
23 matrix, is there any indication that mileage for
24 Washington-positioned drivers would be higher than
25 anyone else's?

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1 A. During this time frame?

2 Q. Yes.

3 A. No.

4 Q. Okay. And you're not aware of any other
5 documentation that would show that, correct?

6 A. During this time frame?

7 Q. Yes.

8 A. No.

9 Q. All right.

10 (Exhibit 21 was marked for identification.)

11 MR. LANE: I'm going to show you -- I
12 don't think I have any more, but Exhibit No. 21.
13 Again, I think we used -- I used my only copies on
14 this. I'm sorry.

15 MS. BRONCHETTI: Well, can you tell me
16 what I'm looking for so I can see if I have it?

17 MR. LANE: It's this -- it's this one
18 that's got an effective date of 12-1-2006, which is
19 the same one, I believe, but I just want to confirm
20 that.

21 MS. BRONCHETTI: I don't -- what's the --

22 MR. LANE: I mean, it's a different
23 printout, so that's why I don't know.

24 MS. BRONCHETTI: What's the Bates stamp
25 number?

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1 MR. LANE: The Bates stamp number --
2 well...

3 THE WITNESS: It doesn't have it.

4 MR. LANE: I don't see one on mine.

5 MS. BRONCHETTI: It's a different
6 document.

7 MR. LANE: Yeah. Do you want me to make
8 you a copy? I'll make you a copy.

9 MS. BRONCHETTI: That would be
10 delightful.

11 MR. LANE: I'm sorry.

12 MS. BRONCHETTI: That's okay.

13 THE VIDEOGRAPHER: Going off record?

14 MS. BRONCHETTI: Sure.

15 THE VIDEOGRAPHER: Off record? Off
16 record at 3:52 p.m.

17 (Recessed from 3:52 p.m. to 3:56 p.m.)

18 THE VIDEOGRAPHER: Back on record at 3:56
19 p.m.

20 BY MR. LANE:

21 Q. Okay. Mrs. Koogle, I've handed you what
22 we've marked as Exhibit No. 21. Do you recognize
23 that document?

24 A. I cannot say that I do recognize this
25 document.

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1 Q. Okay. How is it -- how is it different
2 than the Exhibit No. 20 that we looked at?

3 MS. BRONCHETTI: Objection; the document
4 speaks for itself.

5 THE WITNESS: Exhibit --
6 BY MR. LANE:

7 Q. Well, what I'm saying, do you -- do you
8 know if there's -- if there's any difference in the
9 pay matrices? I don't see any, but that's...

10 MS. BRONCHETTI: Well, I mean, that
11 misrepresents the document, Joe. I mean, it's -- the
12 actual chart itself; is that your question?

13 MR. LANE: The actual, the matrix, yes.
14 This, the matrix.

15 BY MR. LANE:

16 Q. Is this the same effective 12-1-2006? It
17 says it's effective 12-1 of 2006. Does it appear to
18 be the same matrix to you?

19 A. No.

20 Q. It isn't?

21 A. No.

22 Q. Okay. What's different?

23 A. The entire first column here that says,
24 zero to one -- 01 to 24 miles is missing off of the
25 document, Exhibit 21, you gave me.

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1 Q. Okay. Yeah. Okay. All right. Do you
2 have any explanation for that?

3 A. No, I don't know where this came from.

4 Q. Okay. Do the other columns appear to be
5 the same wages and the same pay?

6 A. I would have to go each -- through each
7 one.

8 Q. Okay. Well, like your lawyer said, it
9 speaks for itself.

10 MR. LANE: Okay. Let's look at what
11 we'll mark as Exhibit No. 22.

12 (Exhibit 22 was marked for identification.)

13 BY MR. LANE:

14 Q. Do you recognize that document?

15 A. I do not. It looks like a blown-up
16 version of the next page.

17 Q. You know what, I -- actually, I think
18 those are mismatched again because there's -- this --
19 this page is exactly the same as the previous one,
20 the second page, 25, is the same as what we've
21 previously marked.

22 MS. BRONCHETTI: No, it isn't.

23 MR. LANE: It's only the first page --
24 beg your pardon?

25 MS. BRONCHETTI: No, it isn't.

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1 MR. LANE: Okay. Well, I'll tell you
2 what, let's take a look at it. I think it is.

3 THE WITNESS: So he has exhibit --

4 MR. LANE: Exhibit 20 is the same.

5 THE WITNESS: Yes.

6 MS. BRONCHETTI: No, it's not. As this?

7 MR. LANE: Not the first page, the second
8 page.

9 MS. BRONCHETTI: Oh, the second.

10 THE WITNESS: Okay.

11 MR. LANE: In other words, the second
12 page we've already marked, the second and third.

13 MS. BRONCHETTI: Yeah, we've already been
14 through that.

15 MR. LANE: It's just the front page is
16 the only thing --

17 MS. BRONCHETTI: Right.

18 MR. LANE: -- that's different.

19 MS. BRONCHETTI: Correct.

20 MR. LANE: I guess what I'm saying is I
21 mis-stapled it. That's been stapled incorrectly.
22 There you go.

23 BY MR. LANE:

24 Q. This is -- Exhibit No. 22, I think I've
25 tried to correct it, is one page, D010224. Is that

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1 what you've got?

2 A. Yes.

3 Q. Okay. It appears to be another matrix
4 similar to what we saw before, but with different
5 mileage rates, correct?

6 A. Right.

7 Q. Down in the bottom right-hand side, above
8 the Bates number, there's a date, "5/23/12." Do you
9 know what that represents?

10 A. I do not.

11 Q. Okay. Has the linehaul, looking back at
12 Exhibit No. 20. Has the linehaul driver pay plan
13 that we talked about on Exhibit 20, the -- the -- the
14 scale been changed for Washington assigned drivers
15 since the effective date of this driver pay plan
16 dated 12-1-06?

17 MS. BRONCHETTI: Objection; vague and
18 ambiguous, asked and answered.

19 THE WITNESS: Can you ask your question
20 again?

21 BY MR. LANE:

22 Q. Yes. We talked about that as of
23 12-1-2006, this was the linehaul drive -- driver pay
24 plan matrix that applied to Washington-positioned
25 drivers as well as other linehaul drivers with Swift,

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1 correct?

2 A. Yes.

3 Q. Okay. Since -- since the effective date
4 of this linehaul driver pay plan, are you aware of
5 changes that have been made to this matrix -- this
6 mileage rate matrix that applies only to
7 Washington-positioned linehaul drivers?

8 A. Yes.

9 Q. When did that occur?

10 A. September 1st, 2011.

11 Q. September, same date that we talked about
12 previously?

13 A. Yes.

14 Q. How was it -- how was it changed?

15 A. I wouldn't know for sure without having
16 it in front of me.

17 Q. Okay. And is it now for linehaul
18 drivers, for Washington-assigned linehaul drivers are
19 no longer paid on the same linehaul driver pay plan
20 mileage matrix as they were prior to September 1st,
21 2011, correct?

22 A. I didn't understand your question.

23 Q. Okay. I -- I don't -- I don't blame you.
24 My question is: After that change occurred, is that
25 the first time that the linehaul drivers that are

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1 Washington positioned were paid under a totally
2 separate linehaul driver mileage rate matrix?

3 MS. BRONCHETTI: Objection; misstates.

4 MR. LANE: It's a question. I'm not
5 misstating anything.

6 BY MR. LANE:

7 Q. I'm saying after that change you just
8 told me about, September 11th -- excuse me.

9 A. September 1st, 2011.

10 Q. September 1st, 2011, after that change,
11 is that the first time that there was a specific
12 mileage matrix for linehaul drivers that was intended
13 specifically for Washington assigned drivers?

14 MS. BRONCHETTI: Objection. Joe, the
15 problem is she never said there was a different
16 matrix. She said the rate increase for starting
17 drivers. So you're -- you're saying that there's a
18 different matrix. There's not.

19 BY MR. LANE:

20 Q. Okay. Well, let me ask it this way,
21 then, because I -- I thought we were talking about a
22 separate -- that the matrix had changed after
23 September 1st, 2011.

24 A. The matrix code?

25 Q. No, the matrix. The actual mileage

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1 matrix changed after September 1st, 2011; is that
2 correct?

3 A. There was a -- there was a Washington
4 linehaul mileage pay matrix created, a new code
5 created on September 1st of 2011, so it was assigned
6 to only Washington mileage-paid drivers.

7 Q. Okay. Prior to that time, did -- did
8 those drivers have their own separate mileage matrix
9 that applied only to them?

10 A. No.

11 Q. Okay. They were paid under the same one
12 that we've been talking about, correct?

13 A. Yes.

14 Q. Okay. Now, did the -- did that change,
15 that creation of a separate Washington-based
16 Washington driver matrix change the mileage rates
17 that applied to those drivers assigned to Washington?

18 A. Can you repeat that question?

19 Q. Well --

20 MS. BRONCHETTI: You've already answered
21 it.

22 BY MR. LANE:

23 Q. -- we don't have the document in front of
24 us because I, apparently, don't have one with me.
25 But can you tell me, did all of the mileage rates

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1 change on the matrix for those Washington drivers?

2 A. I would have to have it in front of me.

3 Q. Okay. All right. But there's the first
4 time, that you -- you're aware of, that there was any
5 separate matrix such as we see on Exhibit 20
6 specifically for Washington drivers, correct?

7 A. As of 9-1-11.

8 Q. Okay. Now, going back to Exhibit No. 19,
9 you had indicated that wasn't complete. Have you
10 seen any document that this Exhibit 19 goes with?

11 A. Yeah, it goes with this one.

12 Q. Okay.

13 A. The numbers at the bottom are even
14 sequential. It goes 19 and 22.

15 Q. Oh, okay. This goes in front of --

16 A. That's correct.

17 Q. I got ya. Okay.

18 A. But 22's not complete either.

19 Q. Where's 22?

20 MS. BRONCHETTI: This.

21 THE WITNESS: Exhibit 22.

22 BY MR. LANE:

23 Q. All right. Well, that's the way it was
24 produced to us. So are you saying there should be a
25 page after this? It's sequentially numbered D010224

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1 and then 225 is this document, the one after it. So
2 that's the way it was produced to us. Are you saying
3 there was something else that goes with 22?

4 A. Well, it stops at four years down here.

5 Q. Yeah.

6 A. And the matrix actually goes to five
7 years.

8 Q. Right.

9 A. So I know there's another page.

10 Q. Right.

11 A. And it's not -- it's not Exhibit 20
12 that's coded as 225.

13 Q. I'm just saying that's the sequential
14 order that it was produced to us. So we'll have to
15 get that straightened out, I guess, at a later date.

16 Did we talk about Mr. Praye?

17 MS. BRONCHETTI: We did.

18 MR. LANE: We did? Okay.

19 MS. BRONCHETTI: Uh-huh.

20 MR. LANE: Okay. I'll tell you what
21 we're going to do, we're going -- we're going to
22 just -- I believe these are sequentially numbered, so
23 I'm just going to mark them all as one exhibit.
24 These are the pay matrices that were provided to us
25 recently, and I'm going to show you a copy of that.

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1 (Exhibit 23 was marked for identification.)

2 BY MR. LANE:

3 Q. Make sure -- if you could, just review
4 that, make sure that that is sequential. I believe
5 it's sequential.

6 A. Yes.

7 Q. Okay. Let's -- let's just go down
8 through this. Did you play any -- what -- what are
9 we looking at here?

10 A. These are the pay matrices that are set
11 up to pay and determine a mileage rate.

12 Q. Okay. Did you play any role in producing
13 these -- these documents?

14 A. Actually printing them, no.

15 Q. Okay. Did you -- did you play any role
16 in determining what documents would be printed?

17 A. Just the documents that were assigned to
18 the drivers that were -- that are on the pay rate
19 history screens.

20 Q. Okay.

21 A. So if it -- if the -- if the matrix was
22 on the pay rate history screens that we were
23 reviewing for Scott Praye and Erickson and everybody
24 --

25 Q. Right.

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1 A. -- that's the matrix, the actual matrix
2 table we provided.

3 Q. Okay. And just so I'm clear, did you
4 provide any examples of matrices that were not
5 applicable to any of the named plaintiffs?

6 A. I -- not that I'm aware of, but like I
7 said, I didn't print them.

8 Q. Okay. Did you provide, to your
9 knowledge, did you provide the pay matrices for --
10 for any matrices that would have been paid to any and
11 all of the plaintiffs? In other words, is it a
12 complete representation of all the matrices that
13 would have applied to the plaintiffs?

14 MS. BRONCHETTI: Objection. I mean, this
15 document -- why don't you ask us that in discovery
16 instead of Ms. Koogle? I don't understand how you're
17 going to get there. This is a 50-page document. And
18 she already testified that she didn't pull these, so
19 I don't think that's a fair question.

20 MR. LANE: Well, this was a response to
21 discovery, and that's not what I was told that was
22 being produced.

23 MS. BRONCHETTI: But -- if you know the
24 answer --

25 MR. LANE: In other words, I've already

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1 asked the question.

2 MS. BRONCHETTI: -- you can answer.

3 BY MR. LANE:

4 Q. In other words, was it your intent to
5 produce a printout of all the matrices that would
6 have applied to the plaintiffs during the claims
7 period?

8 A. During the -- yes.

9 Q. Okay. All right. Well, I think we
10 talked about most of these, if not all of them, but I
11 want to go through them so we can understand what
12 we're looking at here. Okay?

13 A. Okay.

14 Q. What is the first page, D010393?

15 A. Yes.

16 Q. What are we looking at?

17 A. This is the Wal-Mart Grandview Washington
18 mileage pay rate that was effective July 2nd of 2012.

19 Q. Okay. Now, do you know what the Wal-Mart
20 Grandview mileage rate would have been prior to July
21 2nd, 2012?

22 A. No.

23 Q. Okay. And what happened on -- did the
24 mileage rate change on the effective date that's
25 listed here?

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1 MS. BRONCHETTI: Objection.

2 BY MR. LANE:

3 Q. July 2nd of 2012?

4 MS. BRONCHETTI: Asked and answered.

5 MR. LANE: It's not asking -- I asked if
6 it changed, not what if she knew what the previous
7 rate was.

8 BY MR. LANE:

9 Q. Do you know if the mileage rate was
10 changed on July 2nd, 2012?

11 A. July 2nd, 2012, yes.

12 Q. Okay. And how was it changed?

13 A. It was increased a penny per mile from
14 the previous matrix.

15 Q. Okay. Now, let's look at the -- the way
16 this matrix works down underneath. We've got a user
17 row defined column, a single seat, first seat, second
18 seat, trainer position, and training position seat.
19 But there looks like -- then there's a matrix of
20 numbers down below. I want to ask you what those
21 mean. Okay?

22 A. Okay.

23 Q. Now, what does -- first of all, what does
24 the -- under the single seat number there, "29000,"
25 what does that represent?

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1 A. That is 29 cents per mile.

2 Q. 29 cents a mile. Okay. And then to the
3 right of that first seat for 3EW2, what does that
4 represent?

5 A. The 19 cents per mile.

6 Q. 19 cents per mile. And is that for first
7 seat?

8 A. Those are if you're a team.

9 Q. If you're a team? Okay.

10 A. First seat's paid 19, second seat's paid
11 19.

12 Q. Oh, okay. All right. And then on the
13 end, we've got a -- what does that represent, the
14 2900 -- 29000?

15 A. If -- if -- if you're a mentor, the pay
16 rate is the same as if -- as if you're driving solo
17 if you're under this matrix.

18 Q. Okay. So 3EW2 mentors don't make any
19 more per mile than non-mentors?

20 A. On this matrix.

21 Q. On this matrix, yes. On 3EW2, that's the
22 matrix?

23 A. That's correct.

24 Q. Okay. Okay. The second line where it
25 says, 24. What does the 24 represent?

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1 A. Twenty-four months of experience.

2 Q. Okay. And at 24 months of experience,
3 what -- what happens to the rate, the mileage rate?

4 A. It increases a penny and a half.

5 Q. And that's what the 1500 stands for,
6 correct?

7 A. That's correct.

8 Q. Is that the same across the board, half a
9 cent for team?

10 A. Yes.

11 Q. Members at 24 months?

12 A. That's correct.

13 Q. And then a penny and a half for the
14 mentor, correct?

15 A. That's correct.

16 Q. All right. So at 24 months, you would be
17 making 30 and a half cents, correct?

18 A. That's correct.

19 Q. Per mile under this matrix?

20 A. Yes.

21 Q. At 36 months, again, if I've -- if I've
22 got the gist of it now, that adds another penny,
23 correct?

24 A. That's correct.

25 Q. So then you're making 31 and a half

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1 cents, correct?

2 A. Right.

3 Q. At 48, another cent and a half, correct?

4 A. That's correct.

5 Q. For 33 cents, correct? Did I do my math
6 right?

7 A. Yes.

8 Q. And then at 60 months, which is 5 years,
9 you go up another 3 cents, correct?

10 A. That's correct.

11 Q. So -- so a high of 36 cents a mile,
12 correct?

13 A. Yes.

14 Q. All right. Starting at 29 and going up
15 to 36, that would be the range for 3EW2 as of July
16 2nd, 2012, correct?

17 A. That's correct.

18 Q. Do you, off the top of your head,
19 remember what that range was prior to this change
20 that occurred on July 2nd, 2012?

21 A. No.

22 Q. Okay. Maybe it's in here. Okay.
23 Looking at the next page, we have a trip matrix code,
24 "GFLAT." Sounds like a musical note. What -- what
25 does that mean? What is that matrix?

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1 A. If you look at the front page --

2 Q. Right.

3 A. -- there is a --

4 Q. Combined?

5 A. -- in the middle of the page, it says,
6 "Combined with GFLAT."

7 Q. Right.

8 A. This is the -- the matrix that says if
9 the load is between 100 and 150 miles, it pays an
10 additional 30 cents if you're solo -- or \$30 if
11 you're solo, and an additional \$15 if you're a team.

12 Q. Okay. And that's what that means on the
13 matrix down below, correct?

14 A. That's correct.

15 Q. All right. And that's anything under 151
16 miles?

17 A. That's correct.

18 Q. Okay. Which is what the columns on --
19 column on the left is referring to?

20 A. Right.

21 Q. Okay. Now, looking back at the first
22 page, let me ask you to define a couple of other
23 fields for me, if you could. "Row Pgm" about just
24 underneath the word, "Effective Date."

25 A. Yes.

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1 Q. It's got "Row Pgm TJMONTHS." What is
2 that referring to?

3 A. Months of experience.

4 Q. Okay. So that's the heading for the 24,
5 36, 48, and 60 down there?

6 A. That's correct.

7 Q. Okay. "Matrix Type," up at the top.
8 That "I," what does that -- it -- it looks like it's
9 the choices are D, I, and S. What do each one of
10 those mean?

11 A. D means -- means direct. It pays a
12 direct amount, which is -- the next page shows a
13 direct type of a matrix. It pays directly what's on
14 the matrix table at the bottom. It pays directly
15 \$30.

16 Q. Okay.

17 A. This one that starts, this has an I is
18 incremental, which is how it increments a penny and a
19 half, a penny when the --

20 Q. Experience level?

21 A. -- experience changes.

22 Q. Okay.

23 A. And then the S is for stop, if it was a
24 stop matrix.

25 Q. Okay. And we've talked about this

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1 before, but 3EW2 is the matrix that's unique for
2 Grandview -- Wal-Mart Grandview?

3 A. That's correct.

4 Q. Okay. Let's go to the third page, 395.
5 And this is matrix code 3EW2G, correct?

6 A. That's correct.

7 Q. What, is this also a Grandview Washington
8 specific matrix?

9 A. Yes.

10 Q. And it has an effective date of July 2nd,
11 2012 as well, correct?

12 A. That's correct.

13 Q. What -- what happened -- what changed on
14 July 2nd, 2012?

15 A. It's the same penny in increase.

16 Q. Okay.

17 A. Penny increase.

18 Q. Penny increase in the -- in the mileage
19 rates?

20 A. That's correct.

21 Q. Across the board?

22 A. What do you mean "across the board"?

23 Q. Well, in other words, is it a penny
24 increase -- well, if you start at a penny increase,
25 everything else is increased at the same incremental

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1 rate, correct?

2 A. Right.

3 Q. All right. So the whole thing, the whole
4 range goes up a penny, correct?

5 A. Right.

6 Q. All right. This is read exactly the same
7 way as the 3EW2, correct?

8 A. It is. Can I point out the difference,
9 though?

10 Q. Yes, there's a G. And what -- 3EW2G,
11 what does the "G" stand for?

12 A. That's the level 2 mentor position.

13 Q. Okay.

14 A. So if you look at the last column on the
15 right --

16 Q. It's up at the --

17 A. -- it's up a penny if you're a mentor.

18 Q. Okay.

19 A. And you have a student on your truck.

20 Q. I got ya. So as long as you have a
21 student on your truck, you start off at a penny
22 higher --

23 A. That's correct.

24 Q. -- rate per mile? Okay. The next page,
25 does that apply to that previous GFLAT part of the

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1 matrix?

2 A. Yes, it's exactly the same.

3 Q. It's exactly the same. Okay. It works
4 the same way as the first one we talked about?

5 A. Yes.

6 Q. 3EW2. All right. The next page,
7 D010397. What are we looking at here, 3EW2S?

8 A. That's the senior level mentor position.

9 Q. Okay.

10 A. Or a matrix, so it's an increase of two
11 cents if you have a trainee on your truck.

12 Q. Okay.

13 A. A mentor.

14 Q. Otherwise, it's the same as the previous
15 matrices?

16 A. Yes.

17 Q. Okay. And we see that over in the last
18 column where it starts at 31 cents as opposed to 29?

19 A. That's correct.

20 Q. Okay. Again, effective date of July 2nd,
21 2012. Does this -- it -- did this matrix go up a
22 penny just like the previous ones --

23 A. Yes.

24 Q. -- at that time? So prior to that, it
25 was -- started at 28 cents, correct?

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1 A. I believe so.

2 Q. The next page, GFLAT again. Does that
3 apply to the -- to the 3EW2S?

4 A. Yes, they're all the same thing.

5 Q. All right. Same thing. Yeah. Okay. I
6 don't know why they're stapled in this order, but
7 hopefully that won't be a problem.

8 The next one is D010399. Pay matrix code
9 WA3E, correct?

10 A. Correct.

11 Q. All right. What -- what -- is that a
12 specific Washington state matrix?

13 A. Yes.

14 Q. Okay. When was it created?

15 A. 9-1-11.

16 Q. Okay. Now, is that when the matrix was
17 created from scratch or was this a previous one that
18 was modified on that date?

19 A. That's the new matrix that was created
20 September 1st, 2011.

21 Q. Okay. Completely new matrix, correct?

22 A. Yes.

23 Q. All right. We read this the same way
24 that we've done before?

25 A. Yes.

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1 Q. So the -- the TJMONTHS over there, that
2 column where it says, "6," that's referring to at six
3 months --

4 A. Yes.

5 Q. -- it would increase two cents, correct?

6 A. That's correct.

7 Q. And then at nine months, it would
8 increase a penny and so on and so on?

9 A. Yes.

10 Q. Okay. The -- the page after that,
11 D010400, what does that apply to?

12 A. That is the Washington East Coast loaded
13 pay matrices.

14 Q. Explain that to me. What is a Washington
15 East Coast? East Coast of what?

16 A. It -- I'm sorry.

17 Q. Go ahead. Because I'm -- I'm confused as
18 to how you have an East Coast in Washington.

19 A. Because if you are a linehaul driver, you
20 drive nationwide.

21 Q. Okay.

22 A. And if you pick up and deliver east of
23 the Mississippi River --

24 Q. Okay.

25 A. -- the system automatically will change

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1 you to this WAEE pay matrix.

2 Q. Okay. All right. My question, then, is:
3 Does that do that on -- you said it automatically
4 changes you. Is it -- regardless of where you're
5 assigned, this matrix would then apply if you're
6 driving east of the Mississippi?

7 A. Only Washington people. Only Washington
8 mileage-based --

9 Q. Okay.

10 A. -- driver -- or a mileage-paid driver.

11 Q. And this was a -- a matrix created on
12 September 1st, 2011?

13 A. That's correct.

14 Q. It didn't exist before then?

15 A. No, it did not.

16 Q. Okay. And it's created specifically for
17 Washington assigned drivers, correct?

18 A. Yes.

19 Q. What -- why was it created?

20 A. It was the review that we did in
21 September 1st, 2011.

22 Q. Okay. I guess my question is: What --
23 what was the matrix that would have applied to this
24 same driver prior to September the 1st, 2011 doing
25 the same linehaul work that we're talking about here?

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1 A. It would have been 3E.

2 Q. 3E. Okay.

3 A. The WA in the front is for Washington.

4 Q. Okay. I got you. And how did -- how did
5 this new matrix compare with 3E? Did it have
6 different mileage rates?

7 A. Yes, the rates are different.

8 Q. Okay. Do you know what the difference in
9 the starting mileage rate was for 3E?

10 A. It varies depending on the effective
11 date, and I don't know without having it here.

12 Q. Okay. Lower or higher than this?

13 A. 3E?

14 Q. Yes.

15 A. Is lower than this.

16 Q. All right. Now, a -- a new term, maybe
17 it's on one of the previous ones, but I'll ask you
18 here. I don't think I've asked you about it, where
19 it says, "Combine" and it says, "MB." What does that
20 stand for?

21 A. It stands for mileage band.

22 Q. And what does that mean?

23 A. It's on the next document, 401.

24 Q. Okay. Let's look at that. "Mileage band
25 loaded miles only." MB. Now, over on the matrix

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1 type, it says "D" in this case. Is that another
2 direct pay?

3 A. Yes.

4 Q. Is that what that means? Okay. And then
5 under the "Row Pgm," it says "TJLOHAUL." Does that
6 stand for long-haul?

7 A. That stands for loaded.

8 Q. Loaded haul.

9 A. Haul miles.

10 Q. Okay. I got you. All right. This has
11 an effective date of 12-1-06, correct?

12 A. That's correct.

13 Q. Tell me about this particular -- who --
14 who does this pay matrix apply to? Is that specific
15 for Washington or is it --

16 A. This -- this applies to all -- it applies
17 to various pay matrices, but it's not specific to
18 Washington.

19 Q. Okay.

20 A. Because it's combined with the Washington
21 pay matrices.

22 Q. Okay. As well as others?

23 A. Yes.

24 Q. As the case may be, correct?

25 A. Yeah.

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1 Q. All right. How does this work?

2 A. Down on the -- I'm sorry.

3 Q. Well, for instance, where it says
4 "TJLOHAUL," that column, excuse me, where it says 25,
5 is that miles?

6 A. Yes, 25 loaded miles.

7 Q. So anything 25 miles or less, you're paid
8 what?

9 A. 20 -- 20 -- less than 25 miles, you don't
10 get an additional amount. It starts at 25 miles.

11 Q. Okay. So at 25 miles, what -- what
12 does -- how do you read the matrix?

13 A. It -- it pays an additional 16 cents per
14 mile.

15 Q. After 25 miles?

16 A. Yes.

17 Q. Okay.

18 A. To 149 miles. At 150 miles, it pays an
19 additional 10 cents. At 200 miles, it pays an
20 additional 8 cents. At 250 miles, it pays an
21 additional 6 cents. At 300 miles, it doesn't pay any
22 additional, it just pays their standard months of
23 experience. Months of --

24 Q. Under the matrix we were talking about?

25 A. Yeah.

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1 Q. Okay. The -- and by matrix, I'm talking
2 about the linehaul matrices we --

3 A. These -- these WA3E, this is their
4 standard rate. So if you're -- if you are a new
5 hired -- or a newly experienced mileage driver, you
6 get paid 28 cents per mile. But if you're at a load
7 that's 25 miles, you get paid 28 cents plus an
8 additional 16 cents. If you do a load that's 300
9 loaded miles, you're only paid 28 cents.

10 Q. Okay.

11 A. Per mile.

12 Q. Okay.

13 A. So that's why they're combined.

14 Q. Right. All right. The next one,
15 D010403. It looks like it's hazard or a hazmat
16 matrix. Go ahead.

17 A. Yes.

18 Q. How does that work?

19 A. That says if the load is a hazmat load,
20 if the order is flagged as hazmat, hazardous
21 materials, it pays an additional flat dollar amount
22 of \$35.

23 Q. Regardless of the length of the load?

24 A. That's correct.

25 Q. All right. And that's a -- that's

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1 matrix, that's a D matrix type, correct?

2 A. Yes.

3 Q. Okay. The next one, D010404. WA3EE?

4 A. So this is the empty matrix that applies
5 for Washington mileage drivers.

6 Q. Okay. All right.

7 A. It doesn't have any combined matrices to
8 it. It is just the standard experience pay matrix.

9 Q. Okay. Let me -- let me go back to the
10 previous page, and just make sure I'm clear. Is this
11 hazard -- haz- -- hazard pay, is it specific for
12 Washington or is this what applies across the board?

13 A. Applies across the board.

14 Q. Okay. The mileage band matrix that we
15 looked at, is that specific to Washington or is that
16 across the board?

17 A. Across the board.

18 Q. Okay. WA3EE. And you were telling me
19 about that. I apologize. What -- how is this --
20 this is the empty matrix, correct?

21 A. That's correct.

22 Q. It was created September 1st, 2011,
23 correct?

24 A. Right.

25 Q. Before that, it was the EE, 3EE?

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1 A. 3EE.

2 Q. Okay. And it's your understanding that
3 this started at a higher mileage rate after that
4 date, correct?

5 A. 9-1-11, yeah.

6 Q. Okay. Before that, the 3EE was
7 nonspecific for Washington, correct?

8 A. Yes.

9 Q. Okay. Here's one I don't think we -- I
10 don't recall seeing. Matrix code, we're looking at
11 D010405. WCSLW. What is that?

12 A. It's -- it is on your employees that are
13 office casual, or I believe Slack is a casual driver.
14 That's the West Coast casual Washington matrix.

15 Q. Okay. Before 9-1-11, which is the
16 effective date on this matrix, did you have a
17 specific casual Washington pay matrix for Washington
18 assigned drivers?

19 A. This was created on 9-1, so, no.

20 Q. Okay. Again, this reads the same way as
21 the previous ones, correct?

22 A. Yes.

23 Q. And this appears to be combined with the
24 mileage band as well, correct?

25 A. Yes, exactly the same one.

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1 Q. Okay. The next one, again, it's -- it's
2 a mileage band loaded. Is this the same as the
3 previous one we looked at?

4 A. Yes.

5 Q. No difference?

6 A. No difference.

7 Q. And it applies across the board, correct?

8 A. That's correct.

9 Q. The next one is D010407, which appears to
10 be "SH" for short haul, correct?

11 A. Yes.

12 Q. How does this work?

13 A. This is a -- this is an additional \$25
14 flat if the load has loaded miles between 25 and 100
15 loaded miles.

16 Q. Okay. So between 25 and 100 is when you
17 get the 25 cents, or as a team, 12 and a half cents?

18 A. It's \$25.

19 Q. I'm sorry.

20 A. Yes.

21 Q. \$25 or \$12 and a half dollars --

22 A. Yes.

23 Q. -- for teams. All right. And this --
24 it's got a combo -- combination with hazard pay; is
25 that correct?

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1 A. The hazmat, yes.

2 Q. Okay. Is it only when it's hazard pay
3 that this applies, or is this -- or I -- I'm trying
4 to figure out why it's -- is it always combined with
5 the hazard pay?

6 A. The short haul matrix?

7 Q. Yes.

8 A. Yes.

9 Q. Okay.

10 A. It's in the previous document also.

11 Q. Okay. Now, I'm sure it's clear if I went
12 back. Can you help me out one more time on the
13 mileage band, it's the previous page.

14 A. Yes.

15 Q. Are we -- we're talking about dollars --
16 \$16 for --

17 A. No, it's 16 cents.

18 Q. 16 cents, I'm sorry.

19 A. If -- if you look above that number
20 there --

21 Q. Yes.

22 A. -- the 16000 --

23 Q. Yes.

24 A. -- it's got the Xs and it shows the
25 decimal. It tells you that it's -- there is the

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1 decimal, and there's five Xs after the decimal.

2 Q. Right.

3 A. So that lets you know that there is, in
4 your number down below, that's -- it's -- if there's
5 only five numbers there, that's a cent per mile.

6 Q. Okay. I got ya. All right. Thank you.
7 I knew there was some significance to that. All
8 right. The next one, I'm looking at D010408.
9 Effective date of October 4th of 2008; is that
10 correct?

11 A. Yes, that's the same hazmat as we
12 reviewed previously.

13 Q. Okay. Just flat \$35?

14 A. That's correct.

15 Q. Okay. The next one is D010409. WCSWE,
16 correct?

17 A. Yes.

18 Q. What is that?

19 A. The West Coast Washington empty mile
20 rate.

21 Q. Who does this apply to?

22 A. Only Washington mileage linehaul drivers.

23 Q. Linehaul drivers?

24 A. Yes.

25 Q. Okay. This would not apply to the

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1 Wal-Mart dedicated drivers, correct?

2 A. That's correct.

3 Q. Would it apply to the Costco drivers?

4 A. No, it would not.

5 Q. Okay. And, again, this was created on

6 September 1st, 2011. What applied to those

7 Washington drivers before this was created

8 specifically for the Washington drivers?

9 A. WCSE, I believe it is.

10 Q. Okay. And that was a -- a pay matrix
11 that applied to all West Coast linehaul drivers?

12 A. Yes.

13 Q. Okay. Now, do you know what the
14 difference in the starting rate for this
15 newly-created Washington matrix compared to the --
16 the one that applied prior to that?

17 A. No, I don't.

18 Q. Okay.

19 A. Not without seeing it.

20 Q. Okay. But you know that it was a lower
21 rate, correct?

22 A. This one here is a higher rate.

23 Q. That's what I mean. The previous version
24 was a lower rate?

25 A. Yeah. Yes.

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1 Q. Okay. Now, DCHW, next page. We're
2 looking at D010410. What's DCHW?

3 A. These -- this is a -- the Washington
4 Costco Heavy-Haul months of experience matrix.

5 Q. Okay.

6 A. It reads just the same as the others.

7 Q. All right. And this has an effective
8 date of July 16th, 2012, correct?

9 A. Yes, that's correct.

10 Q. Was that when this matrix was created
11 specifically for Washington Costco Heavy-Haul
12 drivers?

13 A. No.

14 Q. Okay. What -- what -- when was this
15 originally created?

16 A. 9-1-11.

17 Q. 9-1-11?

18 A. Yes.

19 Q. Okay. So that was originally -- what
20 happened -- well, prior to 9-1-11, was there a
21 specific Washington Costco Heavy-Haul mileage matrix?

22 A. No.

23 Q. Okay. After 9-1-11, one was created. Do
24 you know what happened in July of 2012?

25 A. Yes.

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1 Q. What changes were made at that point?

2 A. It was increased a penny.

3 Q. Okay. It was increased a penny. Okay.

4 Prior to 9-1-11, what -- what was the Costco
5 Heavy-Haul pay matrix?

6 A. I don't know without having it here.

7 Q. Was it -- was it less than the matrix
8 that was created on September 1st, 2011?

9 A. Yes.

10 Q. But you just -- as you sit here, you
11 don't know how much?

12 A. No.

13 Q. And then again in July of 2012, it
14 increased more, correct?

15 A. It -- in July of 2012, it increased a
16 penny.

17 Q. One penny. Okay. It says this is
18 combined with DCHD. What is that?

19 A. The next page.

20 Q. Okay. All right. The next page is
21 D010411?

22 A. That's correct.

23 Q. And is that the same matrix basically,
24 but for payment for double trailers?

25 A. Yes.

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1 Q. Okay.

2 A. That only applies to Costco Heavy-Haul.

3 Q. Costco Heavy-Haul. Okay. Is this
4 specific for Washington?

5 A. This matrix here?

6 Q. Yes.

7 A. No, it's specific to all Costco
8 Heavy-Haul.

9 Q. Okay. Regardless of where you -- where
10 you're assigned?

11 A. Yes.

12 Q. All right. And to make sure I'm reading
13 it correctly, is this -- what is the payment down
14 there for heavy -- for double Heavy-Haul?

15 A. It's an additional -- the -- the rates
16 down at the bottom?

17 Q. Yes.

18 A. Additional 4 cents per mile.

19 Q. Additional 4 cents a mile.

20 A. So it's .04000.

21 Q. I got you. I got you. Okay. Thank you.
22 And that's also combined with the mileage band,
23 correct?

24 A. Yes.

25 Q. All right. Next code, mileage band, is

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1 this any different than what we previously talked
2 about?

3 A. Exactly the same.

4 Q. Okay. Again, that's not specific for
5 Washington, correct?

6 A. Correct.

7 Q. Short haul?

8 A. Combined with hazmat, exactly the same.

9 Q. And not specific for Washington, correct?

10 A. That's correct.

11 Q. Hazard pay any different than what we've
12 talked about?

13 A. Exactly the same.

14 Q. \$35, correct?

15 A. That's correct.

16 Q. DCHWE?

17 A. This is the Costco Heavy-Haul empty rate
18 per mile for Washington.

19 Q. Okay. Effective date of 7-16-12?

20 A. Yes.

21 Q. Again, was this created on 9-1?

22 A. Originally created?

23 Q. Yes.

24 A. Yes, 9-1-11.

25 Q. All right. And prior to that, was there

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1 any Costco empty mile specific for Washington?

2 A. No.

3 Q. No -- no matrix specific for Washington?

4 A. No.

5 Q. Okay. Same change on July 16th, 2012,
6 was increased a cent?

7 A. Yes.

8 Q. Okay. It says, this is combined with
9 DCHD2.

10 A. Yes.

11 Q. Is that the mentor level?

12 A. No, it's the next page.

13 Q. Okay.

14 A. Which is the same as the previous one.

15 Q. Four cents?

16 A. It pays an additional 4 cents.

17 Q. Got ya. Okay. For double trailers?

18 A. Right.

19 Q. I got ya. Okay. DCHWM?

20 A. These are the level 2 mentor. So the
21 only difference is the trainer rate over on the side
22 is an additional penny.

23 Q. Okay.

24 A. All the combines are the same.

25 Q. All right. And the creation date and the

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1 modification date of July 16th, 2012 is the same?

2 A. Yes. The original creation date of
3 9-1-11.

4 Q. Okay. And prior to that, there was no
5 Washington specific dedicated Costco Heavy-Haul level
6 2 mentor?

7 A. Prior to 9-1-11, no.

8 Q. Yes. The next one is D010418. Matrix
9 code DCHD?

10 A. Same as all the other previous we
11 reviewed.

12 Q. Okay. Again, this is a --

13 A. An additional 4 cents.

14 Q. Yes. Got ya. MB, it's the same as
15 previously?

16 A. Exactly.

17 Q. Okay. Page 420, short haul, same as we
18 previously talked about?

19 A. Exactly.

20 Q. Hazard pay, page 421, same?

21 A. Exactly the same.

22 Q. DCHW2, have we talked about that one?

23 A. No, it's the empty mile for level 2
24 mentor Costco Washington Heavy-Haul.

25 Q. Okay. Again, we've got an effective date

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1 of July 16th, 2012, was also a creation date of --

2 A. 9-1-11.

3 Q. Okay. September 1, '11. And was there a
4 Washington specific Costco empty mile level 2 mentor
5 matrix prior to that September 1st, 2011 creation?

6 A. No.

7 Q. And, again, the rates for the 9-1-11
8 creation was higher than the -- the non-Washington
9 specific matrix that applied, correct?

10 A. That's -- that's correct.

11 Q. The next one, D010423. Effective date
12 October 1, 2008. What -- what is this one?

13 A. It's exactly the same as the previous,
14 the Heavy-Haul for an additional four cents.

15 Q. Okay. Non-specific for Washington?

16 A. That's correct.

17 Q. Okay. The next one, 424. Page 424.
18 DCHWS?

19 A. Exactly the same. It's just the senior
20 mentor matrix that pays an additional two cents if
21 you're training.

22 Q. Okay. Otherwise, the creation date of
23 9-1-11, and the additional change on July 16th, 2012?

24 A. That's correct.

25 Q. Okay. DCHD?

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1 A. Is the additional four cents.

2 Q. Okay.

3 A. That's previously reviewed.

4 Q. Again, non -- non-Washington specific,
5 correct?

6 A. That's correct.

7 Q. MB, same as what we've talked about?

8 A. Exactly.

9 Q. SH, same as what we've talked about?

10 A. Exactly.

11 Q. Hazard, same as we've talked about,
12 correct?

13 A. Exactly.

14 Q. DCHSW?

15 A. This is the same exact matrix, but for
16 the empty rate for the senior mentors. So an
17 additional two cents per mile.

18 Q. Okay. Again, this appears to have been
19 one that's created September 1st of 2011?

20 A. That's correct.

21 Q. And a -- a last effective date of July
22 16th, 2012?

23 A. That's correct.

24 Q. Same modifications as we talked about
25 before?

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1 A. Yes.

2 Q. For those creation dates?

3 A. Yes.

4 Q. And non -- and prior to 9-11, nonspecific
5 for Washington, correct?

6 A. That's correct.

7 Q. In other words, there was -- there was no
8 Washington specific matrix prior to 9-11, correct?

9 A. 9-1-11, yes.

10 Q. 9-1-11. Page 430. Same thing, direct
11 pay nonspecific for Washington, correct?

12 A. That's correct.

13 Q. Costco Heavy-Haul doubles?

14 A. That's correct.

15 Q. DCH, same as we've talked about?

16 A. Yes.

17 Q. This -- this says a modification, or
18 effective date of July 16th, 2012?

19 A. Yes.

20 Q. And prior to 9-1-11, this was -- there
21 was no Washington specific dedicated Costco
22 Heavy-Haul matrix? In other words, was this created
23 on 9-1-11 as well?

24 A. No. This is -- see how it doesn't have
25 Washington at the top of it?

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1 Q. Yeah.

2 A. This is the Costco Heavy-Haul
3 non-Washington matrix.

4 Q. Oh, okay. Okay. All right. So this was
5 not created on 9-1-11?

6 A. That's correct. This is the original
7 one.

8 Q. Oh, okay. I got you.

9 A. The rates are not the original rates.
10 This is the July 16th rate of 2012 rate.

11 Q. Okay. What happened to the rates on July
12 16th, 2012 for this matrix code?

13 A. The same as the others where it was
14 increased a penny.

15 Q. Okay. So this was increased a penny,
16 even though this is not Washington specific?

17 A. This was an increase for all of Costco
18 Heavy-Haul, the penny increase on July 16th.

19 Q. Okay.

20 A. Wal-Mart, all of Wal-Mart, all of Costco
21 were given a penny increase in July of 2012.

22 Q. I got you.

23 A. Regardless of Washington or not.

24 Q. And that's the penny that's reflected in
25 the -- the Washington specific matrices that were

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1 created on 9-1-11?

2 A. Right.

3 Q. The additional penny in July of 2012?

4 A. That's correct.

5 Q. I got you. For both Wal-Mart and -- and
6 Costco?

7 A. Yes.

8 Q. All right. The next one, we talked about
9 that one. DCHEM?

10 A. This is the empty matrix.

11 Q. Okay. The nonspecific?

12 A. That is nonspecific to Wal-Mart. Or, I
13 mean, on Washington.

14 Q. Okay. And that -- that effective date of
15 July 16th, 2012 was the one-cent across-the-board
16 increase, correct?

17 A. That's correct.

18 Q. D010433?

19 A. Yes.

20 Q. What are we looking at here; is this --

21 A. Nonspecific to Wal-Mart, empty.

22 Q. Well, nonspecific to Wal-Mart or Costco?

23 A. Washington. I'm sorry.

24 Q. I'm sorry. Good.

25 A. I'm getting tired.

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1 Q. Nonspecific to Washington Costco
2 Heavy-Haul, correct?

3 A. Mentor 2.

4 Q. Okay.

5 A. Level 2.

6 Q. All right. Otherwise, everything's the
7 same, this was at an increase of one cent across the
8 board on July 16th, 2012?

9 A. That's correct.

10 Q. And this was the matrix that would have
11 applied prior to the creation of the Washington
12 specific dedicated Costco Heavy-Haul level 2 mentor?

13 A. From 9-1-11.

14 Q. From 9-1-11, correct?

15 A. Yes.

16 Q. DC- -- DCHME?

17 A. The exact same as the previous, but this
18 is the empty matrix.

19 Q. Okay. Again, one cent across the board,
20 July 16th, 2012, correct?

21 A. Correct.

22 Q. And this would have been the one that
23 applied to Costco Heavy-Haul empty level prior to
24 9-1-11?

25 A. Correct.

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1 Q. Okay. Well, the matrix that -- yeah.

2 A. The matrix code, not the rate.

3 Q. Right. Right. DCHS?

4 A. The exact same as the previous, but
5 senior mentor, so the two cents.

6 Q. Okay. Again --

7 A. While training.

8 Q. -- non-Washington specific, correct?

9 A. Correct.

10 Q. And would have been the one that applied
11 to Costco Heavy-Haul senior mentor prior to 9-1-11?

12 A. Yes.

13 Q. That was created for Washington, correct?

14 A. That's correct.

15 Q. Okay. Prior to the 9-1-11 matrix, it was
16 created for Washington?

17 A. Yes.

18 Q. Okay. DCHSE?

19 A. All exactly the same, except this is the
20 empty for senior mentor 2.

21 Q. Okay.

22 A. Or mentor level.

23 Q. Everything else is the same. This is
24 would have -- this is nonspecific for Washington?

25 A. Yes.

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1 Q. And it would have applied to Costco
2 Heavy-Haul empty senior mentor prior to 9-1-11
3 creation of the Washington specific matrix, correct?

4 A. That's correct.

5 Q. Okay. WALD?

6 A. This is the Wal-Mart matrix, Wal-Mart
7 loaded mile matrix.

8 Q. Okay.

9 A. Looking at this, I'm not sure if this is
10 the -- I'm not sure what location this is for. It
11 doesn't appear to be Grandview because it doesn't say
12 Grandview at the top.

13 Q. Right. Well, can you name me any
14 location that this pay matrix would have been
15 applicable to?

16 A. I wouldn't know.

17 Q. Okay. Now, it says it's got an effective
18 date of July 2nd. I think we were saying 16th
19 before, correct?

20 A. Yes, July 2nd.

21 Q. What happened on July 2nd, 2012?

22 A. A penny increase from the previous
23 Wal-Mart.

24 Q. Across -- across the board --

25 A. For?

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1 Q. For Wal-Mart.

2 A. Yes. Wal-Mart was July 2nd of 2012.
3 Costco was July 16th of 2012.

4 Q. Okay. I see. Same month. Little bit
5 different date.

6 A. Yes.

7 Q. Okay. This one says, "Combine WAFL."
8 What is that?

9 A. A flat amount. And I don't see that
10 here.

11 MS. BRONCHETTI: What are you looking
12 for?

13 THE WITNESS: WA, F as in Frank, L. I
14 don't see that one here. It pays a flat amount based
15 on number of miles on the load.

16 BY MR. LANE:

17 Q. Okay. Okay. The next one, page 438,
18 WAEM?

19 A. That is the same as the previous, but for
20 empty miles.

21 Q. Okay. Again, effective date of 7-2-12,
22 which was the one-cent across-the-board increase,
23 correct?

24 A. Correct.

25 Q. Is this nonspecific for Washington?

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1 A. Nonspecific for Washington.

2 Q. And the previous one, is it
3 nonspecific -- the WALD, is that nonspecific for
4 Washington?

5 A. Yes.

6 Q. WASEM?

7 A. That's the senior mentor position --

8 Q. Okay.

9 A. -- for the Wal-Mart nonspecific
10 Washington.

11 Q. Nonspecific -- it's nonspecific for
12 Washington?

13 A. Correct.

14 Q. I'm sorry. Okay. Okay. And the same
15 increase on July 2nd, 2012?

16 A. A penny increase.

17 Q. Okay. Penny increase. 3EWM?

18 A. This is a Wal-Mart matrix. I'm not sure
19 what location this is for either. For -- just pays a
20 rate per mile. It doesn't have any combined flat
21 amounts or anything.

22 Q. Okay. And this has an effective date of
23 7-2 of 2012, and that's when the one-cent increase
24 was reflected?

25 A. That's correct.

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1 Q. Okay. And make sure I'm clear. Do you
2 know, this is or is not Washington specific?

3 A. This is not Washington specific.

4 Q. Okay.

5 A. I don't know the location.

6 Q. Okay. 3EWS?

7 A. That's the same as the previous, but this
8 is the senior level mentor.

9 Q. Okay. Non-Washington specific?

10 A. Correct.

11 Q. And, again, the -- the cent increase on
12 July 2nd, 2012?

13 A. That's correct.

14 Q. Okay. 3E?

15 A. This is the standard linehaul pay matrix.

16 Q. That would be combined with miles band,
17 correct?

18 A. Yes.

19 Q. All right. And it has an effective date
20 of 4-27-09. Do you know what happened on that date?

21 A. That is the date that in 2009, Swift did
22 a penny decrease.

23 Q. Penny decrease. Okay. That was in 2000
24 and --

25 A. '9.

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1 Q. '9. Okay. Was that a penny decrease
2 across the board for all --

3 A. Linehaul.

4 Q. -- linehaul matrices?

5 A. Yes.

6 Q. Okay. Is this spec- -- Washington
7 specific or nonspecific for Washington?

8 A. Nonspecific.

9 Q. Okay.

10 A. This the exact same, just the empty. The
11 next one.

12 Q. Okay. You said 3E. That's just the
13 empty, correct?

14 A. Yes.

15 Q. All right. Nonspecific for Washington?

16 A. Yes.

17 Q. Effective date of 4-27-09?

18 A. Yes.

19 Q. And that was a reduction in the mileage
20 rates across the board by one cent?

21 A. Yes.

22 Q. As far as the -- the pay matrices that we
23 talked about for each of the plaintiffs, did we cover
24 all of those in this exhibit, No. 23?

25 A. Yes, I believe so.

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1 Q. All right.

2 MS. BRONCHETTI: Counsel, can we go off
3 record, off the record, please?

4 MR. LANE: Yeah.

5 THE VIDEOGRAPHER: Off record at 4:56
6 p.m.

7 (Recessed from 4:56 p.m. to 5:01 p.m.)

8 THE VIDEOGRAPHER: Back on record at 5:01
9 p.m.

10 BY MR. LANE:

11 Q. Mrs. Koogle, just to kind of summarize
12 what we just went through in terms of the pay
13 matrices, we talked about the pay matrices, each one
14 individually that have been produced to us, and it's
15 my understanding that -- that prior to 9-1-11, with
16 regards to the matrices that we reviewed, none of
17 those were Washington specific pay matrices, correct,
18 prior to 9-1-11?

19 A. Where the -- are you talking about the
20 effective date that was on the --

21 Q. Yes.

22 A. -- pay matrix?

23 Q. Yes.

24 A. Yes, that's correct.

25 Q. Okay. And after 9-1-11, that's when the

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1 Washington specific pay matrices were created,
2 correct?

3 A. That's correct.

4 Q. All right. Are you aware of any other
5 pay matrices that -- that were not reflected in the
6 exhibit, No. 23, that we just reviewed, that were
7 prior to 9-1-11 specific to Washington-positioned
8 drivers?

9 MS. BRONCHETTI: Objection; asked and
10 answered.

11 BY MR. LANE:

12 Q. I mean, can you think of any others
13 that --

14 A. No.

15 Q. Okay. I want to review a couple things
16 from the -- from the 30(b) notice. We've been
17 talking about some of these items, but I want to make
18 sure I'm -- I'm clear that -- that you are or are not
19 testifying on behalf of Swift on these items that
20 we've -- we've discussed. No. 11.

21 MS. BRONCHETTI: Joe, give me a minute,
22 please.

23 MR. LANE: Oh, I'm sorry.

24 MS. BRONCHETTI: Do you have another
25 copy? Okay. Proceed.

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1 BY MR. LANE:

2 Q. Okay. Item No. 11, which was at the
3 beginning of your deposition, we talked about that
4 that would be an area that you would testify as the
5 representative of Swift, correct?

6 MS. BRONCHETTI: No, that's not correct,
7 Joe. What we said is that she can testify as to the
8 payroll capacity communications, not to other
9 communications.

10 MR. LANE: Okay. I -- I understand. I
11 wasn't -- I was going to ask her about the
12 communications.

13 BY MR. LANE:

14 Q. Have we talked about all of the
15 communications from payroll reflecting communications
16 regarding the overtime rate for Washington-based
17 drivers? Have we talked about all of the
18 communications, that you're aware of, that came out
19 of the payroll department and went to the
20 Washington-based or Washington-positioned drivers?

21 A. That I'm aware of, yes.

22 Q. Okay. And -- and you're speaking on
23 behalf of the corporation as the -- as the person
24 most knowledgeable about those communications coming
25 out of the payroll department, correct?

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1 A. From -- to my extent of my knowledge,
2 yes.

3 Q. Yes.

4 A. Yes.

5 Q. Yes. And we talked about the
6 acknowledgment form to some degree. Any other -- is
7 there any other communication, that you're aware of,
8 other than the acknowledgment form?

9 MS. BRONCHETTI: Asked and answered
10 several times. The last time she's answering this
11 question, Joe.

12 MR. LANE: Okay.

13 THE WITNESS: Can you ask your question
14 again?

15 BY MR. LANE:

16 Q. Yes. Other than the acknowledgment form,
17 are there -- you know, we've been at this a long
18 time, and I don't remember your specific answer on
19 this, but other than the acknowledgment form, are
20 there any other communications that we have not
21 talked about that communicated to the drivers
22 anything having to do with overtime rates and their
23 mileage rate of pay?

24 MS. BRONCHETTI: From payroll?

25 MR. LANE: Yes, from payroll.

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1 THE WITNESS: Not that I'm aware of.

2 BY MR. LANE:

3 Q. Okay. Now, Item No. 16, because I don't
4 think -- you were listed for Item No. 12, but I think
5 that's -- your answers would be the same for Item No.
6 12, which take us back to 1998. And you're not aware
7 of any communications going back that far any
8 differently than what you've told me about, correct,
9 coming out of payroll?

10 MS. BRONCHETTI: We -- we designated --
11 designated her for 2006 onward.

12 MR. LANE: Exactly. And that's -- that's
13 why I'm saying I don't think it's any different than,
14 really, 11.

15 BY MR. LANE:

16 Q. Is there any difference in your answer
17 with regards to going back to 2006?

18 A. Which one are you talking about now?

19 MS. BRONCHETTI: Objection; asked and
20 answered.

21 BY MR. LANE:

22 Q. Never mind. I'll tell you what, it's --
23 you're not aware of any other communications,
24 regardless of the date, than the ones we've talked
25 about, correct?

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1 A. That I'm aware of, that's correct.

2 Q. Right. Okay. Testimony of documents
3 detailing, pertained to, and/or describing the pay
4 plans for local and linehaul drivers that were in
5 place from 1995 through 2007.

6 A. Where are you now?

7 Q. That's -- that's Item No. 16, and I
8 understand that you were just testifying going back
9 to 2006, correct?

10 A. That's correct.

11 Q. All right. Have we -- have you told me
12 about all of -- have we talked about all of those pay
13 plans that -- that would be discussed under that
14 item?

15 MS. BRONCHETTI: Objection.

16 BY MR. LANE:

17 Q. Have we talked about all the pay plans
18 for local and linehaul drivers that were in place
19 from 1995 through 2007 -- or 2006 through 2000 and --
20 it's supposed to be 2006 to the present, I assume is
21 what you're being put up for, correct?

22 MS. BRONCHETTI: Well, no, we identified
23 her responsive to your request and it was 2006 to
24 2007. And, Joe, if you're asking have we reviewed
25 all pay plans throughout the country related to local

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1 and linehaul drivers, the answer is absolutely not.

2 MR. LANE: Okay.

3 MS. BRONCHETTI: And as stated in our
4 objections, that request is way overbroad.

5 MR. LANE: Okay. We'll revisit that.
6 But that's -- that's fine.

7 BY MR. LANE:

8 Q. Let's look at No. 17. I'll just read it
9 because I can't remember what it says without reading
10 it again. "Testimony and documents detailing,
11 pertaining to" --

12 THE REPORTER: I'm sorry, can you slow
13 down, please?

14 BY MR. LANE:

15 Q. "Testimony and documents detailing,
16 pertaining to, and/or describing the changes to your
17 compensation plans for linehaul drivers that occurred
18 after the Bostain decision." Do you -- are you
19 familiar with the Bostain decision?

20 MS. BRONCHETTI: Objection; calls for a
21 legal conclusion.

22 BY MR. LANE:

23 Q. Are you aware of the Bostain decision?

24 MS. BRONCHETTI: If you know what he's
25 talking about, you can answer.

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1 THE WITNESS: I am not aware with the
2 details of it, no.

3 BY MR. LANE:

4 Q. Okay. So you don't have knowledge that
5 would be responsive to No. 17 as it's worded?

6 A. No.

7 Q. Okay. I'll -- I'll represent to you that
8 the Bostain decision I'm referring to there is March
9 the 1st of 2007. Have we talked about the changes to
10 the compensation plans for linehaul drivers that
11 occurred after the -- that date, March of 2007, with
12 regards to the Washington pay plans?

13 A. As we've described in our documents
14 today, yes.

15 Q. Yes. Okay. Are you aware of any that we
16 have not discussed that would have applied to
17 Washington drivers?

18 A. No.

19 Q. Okay. No. 18. You were put up for, at
20 least for the time frame 2006 to the present. Let's
21 read it. "Testimony and documents detailing,
22 pertaining to, and/or describing the changes to the
23 compensation plans for local drivers that occurred
24 after -- well, in this case, 2006."

25 We didn't really talk about local

SARAH L. KOOGLE; March 15, 2013

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1 drivers. Have there been any changes to the local
2 drivers' compensation plans since 2006?

3 MS. BRONCHETTI: Objection; overbroad,
4 calls -- calls for speculation, lacks foundation.
5 BY MR. LANE:

6 Q. Okay. Well, let me just ask this: Are
7 local drivers paid by the mile or by the hour?

8 A. I'm -- I'm not the one that can be
9 deciding whether or not local drivers are paid by the
10 mile or by the hour.

11 Q. Okay. You -- you don't have knowledge
12 about typically how they're paid?

13 A. It would -- it would vary based on what
14 location they're at, what state they're at, are they
15 at Washington --

16 Q. Okay.

17 A. -- Wal-Mart or Costco.

18 Q. Local drivers are not considered -- do
19 you know if they're considered to be interstate
20 drivers or long-haul drivers, or if they're local,
21 they're not long-haul, correct?

22 A. I don't know.

23 Q. Okay. All right. So you don't have --
24 in terms of local driver pay plans, you don't have
25 information about that, correct?

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1 MS. BRONCHETTI: Objection; misstates
2 testimony.

3 BY MR. LANE:

4 Q. I mean, you -- you don't have any pay
5 plans that apply to local drivers that you're aware
6 of?

7 A. That -- I don't know what you mean by pay
8 plans. I mean, pay packages? Pay matrices?

9 Q. Have -- have we talked about any pay
10 plans today that would apply to local -- what you
11 understand to be local drivers?

12 A. Not that I'm aware of.

13 Q. Okay. No. 24. Have you told me, have we
14 discussed, and have you talked about, on behalf of
15 Swift, the availability and accessibility of
16 information in the payroll department for the hire
17 date, compensation rates, and rates of pay for Swift
18 drivers?

19 MS. BRONCHETTI: In Washington?

20 MR. LANE: Well, in Washington or
21 elsewhere.

22 BY MR. LANE:

23 Q. I mean, is -- is the information
24 available regardless of where they're located?

25 A. For the sections that you were talking

SARAH L. KOOGLE; March 15, 2013

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1 about, the hire date, the --

2 Q. Compensation and rates of pay?

3 A. Yes.

4 Q. Okay. And that's available regardless of
5 where they're from, correct?

6 A. Yes.

7 Q. Going back to July of 2008, correct?

8 A. Yes.

9 Q. The last item that you were -- put up for
10 testimony on behalf of Swift was Item No. 30. And it
11 says, "Testimony and documents detailing, pertaining
12 to, or describing the identity of all
13 Washington-based drivers as classified by Defendant
14 Swift."

15 Now, obviously, we haven't identified
16 every driver that -- that Swift claims or classifies
17 as Washington-based, but have we talked about the --
18 the manner in which Swift classifies those drivers;
19 in other words, by position?

20 A. Washington-based drivers?

21 Q. Yes.

22 A. Yes.

23 Q. Okay. And Washington-based drivers, as
24 far as Defendant Swift is concerned, and the new pay
25 matrices that have been developed to address

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1 Washington-based drivers, is based upon their
2 Washington position, correct?

3 A. Their Washington position, yes.

4 Q. Yes. Okay.

5 A. Working at a Washington location.

6 Q. Okay. Regardless of where they're
7 driving, correct?

8 A. That's correct.

9 Q. I think that's all -- all on that. Let
10 me just look at my notes to see if there's...

11 Do you know anything about the -- the
12 Qualcomm system that's used by the drivers?

13 A. I have limited knowledge about the
14 Qualcomm system.

15 Q. Okay. And the payroll department, do you
16 rely upon driver's logs, whether electronic or
17 manual, in any way, in -- in doing the payroll
18 functions?

19 A. Yes.

20 Q. How do you rely on those?

21 A. For our student pay scale, our student
22 hourly pay scale.

23 Q. How do -- and how do you -- how do you
24 utilize that? Give me an example.

25 A. Our students that are -- our student --

SARAH L. KOOGLE; March 15, 2013

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1 our trainee students are paid based on an hourly rate
2 as of 11-12-2012. And it's used -- we use log hours
3 for on-duty driving hours and on-duty not-driving
4 hours --

5 Q. Okay.

6 A. -- in order to determine what -- how many
7 hours they've worked for the pay week.

8 Q. Okay. And what was that date again?

9 A. November 12, 2012.

10 Q. Prior to November 12, 2012, how were --
11 how were the students paid?

12 A. The student salary pay, that's among a
13 bunch of these documents.

14 Q. Okay. Those matrices that you were --

15 A. The salary rates.

16 Q. Yeah. Okay. Did you use the logs, in
17 any way, to determine the students' pay prior to
18 11-12-12?

19 A. No.

20 Q. Okay. Now, after 11-12-12, using that
21 hourly, those hours that are part of the loggings,
22 the -- the DOT logs, do you use those hours for
23 calculating overtime pay?

24 A. For Washington-based drivers, yes.

25 Q. For Washington-based drivers, student

SARAH L. KOOGLE; March 15, 2013

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1 drivers?

2 A. Yes.

3 Q. Okay. Do you know of any calculations as
4 a function of the payroll department that was done
5 prior to 11-12-12 to account for student overtime
6 pay?

7 A. Not me specifically, no. In my
8 department.

9 Q. Okay. And I'm speaking about in
10 Washington.

11 A. No.

12 Q. Okay. Typically, the students that
13 you're -- you're -- you're talking about, do they --
14 during that training period, do they typically work
15 over 40 hours in a week?

16 A. It completely varies.

17 MS. BRONCHETTI: Objection.

18 BY MR. LANE:

19 Q. Okay. And that -- that would be
20 reflected in their logs, correct?

21 A. Yes.

22 Q. Are those logs, those records that you're
23 talking about, are those retained by the payroll
24 department?

25 A. Not by payroll, no.

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1 Q. Okay. Are they retained somewhere in
2 the -- in the Swift organization?

3 A. For a -- a certain date and -- a date --
4 a certain date that I -- it's in 2009. I don't, off
5 the top of my head, know exactly the date.

6 Q. Okay.

7 A. But it's not back to 2008.

8 Q. Okay.

9 MR. LANE: And I think that's all I have.

10 MS. BRONCHETTI: Thank you. I have no
11 questions.

12 MR. LANE: Okay.

13 THE VIDEOGRAPHER: This marks the end of
14 Disk 4 of 4 in the deposition of Sarah Koogle. The
15 original disks of today's testimony will be retained
16 by Yamaguchi Obien Mangio. Going off the record at
17 5:18 p.m.

18 (The proceedings concluded at 5:18 p.m.)
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1	ERRATA SHEET FOR THE TRANSCRIPT OF:		
2	Case Name:	Slack, et al. v. Swift	
3	Dep. Date:	March 15, 2013	
4	Deponent:	Sarah L. Koogle	
5	CORRECTIONS:		
6	Pg. _____ Ln. _____	Reason _____	
7	NOW READS: _____		
8	SHOULD READ: _____		
9	Pg. _____ Ln. _____	Reason _____	
10	NOW READS: _____		
11	SHOULD READ: _____		
12	Pg. _____ Ln. _____	Reason _____	
13	NOW READS: _____		
14	SHOULD READ: _____		
15	Pg. _____ Ln. _____	Reason _____	
16	NOW READS: _____		
17	SHOULD READ: _____		
18	Pg. _____ Ln. _____	Reason _____	
19	NOW READS: _____		
20	SHOULD READ: _____		
21	Pg. _____ Ln. _____	Reason _____	
22	NOW READS: _____		
23	SHOULD READ: _____		
24			
25	_____ Signature of Deponent		

SARAH L. KOOGLE; March 15, 2013

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1 I, Sarah L. Koogle, do hereby declare
2 under penalty of perjury that I have read the
3 foregoing transcript; that I have made any
4 corrections as appear noted, in ink, initialed by me,
5 or attached hereto; that my testimony as contained
6 herein, as corrected, is true and correct.

7
8 _____ I have made changes to my deposition.

9 _____ I have NOT made any changes to my deposition.

10

11 EXECUTED this _____ day of
12 _____, 20__, at _____,
13 _____ (City)
14 (State)

15

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Sarah L. Koogle

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CERTIFICATE

I, Janice E. Harrington, Certified Court Reporter for the State of Arizona, certify:

That the foregoing deposition was taken by me; that I am authorized to administer an oath; that the witness, before testifying, was duly sworn by me to testify to the whole truth; that the questions propounded by counsel and the answers of the witness were taken down by me in shorthand and thereafter reduced to print by computer-aided transcription under my direction; that deposition review and signature was requested; that the foregoing pages are a full, true, and accurate transcript of all proceedings and testimony had upon the taking of said deposition, all to the best of my skill and ability.

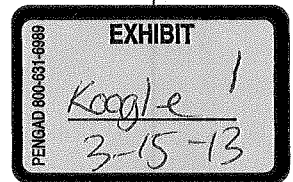
I FURTHER CERTIFY that I am in no way related to nor employed by any of the parties hereto nor am I in any way interested in the outcome hereof.

DATED this 28th day of March, 2013



Janice E. Harrington
Certified Court Reporter No. 50844
For the State of Arizona

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA



TROY SLACK, JACOB GRISMER, RICHARD
ERICKSON, and SCOTT PRAYE, Individually,
and as Putative Class Representatives,

No. 3:11-cv-05843-BHS

Plaintiffs,

v.

SECOND AMENDED NOTICE OF
30(b)(5) & (6) DEPOSITION

SWIFT TRANSPORTATION CO. OF ARIZONA,
LLC,

Defendants.

TO: Paul Cowie and/or Ellen Bronchetti, Attorneys for Defendant Swift

Please take notice that plaintiffs, pursuant to Federal Rules of Civil Procedure 30(b)(5) & (6), will take the deposition(s) of Defendant Swift Transportation Co. of Arizona (hereinafter Defendant Swift), upon oral examination, through the designated representative(s) of Defendant Swift relative to Plaintiffs claims beginning on the following date at the following location:

DATE: Friday, March 15, 2013
TIME: 11:00 a.m. (Contemporaneous with or following previous depositions)
PLACE: Clarendon Corporate Park in the Office of Driver + Nix
ADDRESS, CITY: 3131 E. Clarendon Avenue, Suite 108
Phoenix, Arizona 85016

Second Amended Notice of 30(B)(5) & (6)
Deposition

NELSON BOYD, PLLC
411 University Street, Suite 1200
Seattle, Washington 98101
(206) 971-7601

1 Plaintiffs will examine the witness(es) in his or her capacity as a Defendant Swift
2 designated representative(s) regarding the matters described herein below. Said witness(es)
3 should be knowledgeable on the matters for which they are designated by Defendant Swift
4 and/or which are known or reasonably available to the Defendant on the following subjects:

- 5 1. Testimony and documents, detailing, pertaining to, and/or describing the
6 organizational structure of SWIFT TRANSPORTATION CO. OF ARIZONA, LLC.
- 7 2. Testimony and documents, pertaining to, describing, and/or evidencing the
8 procedures, formulas and/or calculations associated with the process of *building*
9 *overtime* into the rates paid to Swift's *Washington based drivers* as indicated in the
10 "Acknowledgement" attached as Exhibit A.
- 11 3. Testimony and documents, pertaining to, describing, and/or evidencing all "mileage
12 rates" paid by Swift to "Washington based drivers" and all documents evidencing all
13 "mileage rates" paid by Swift to its drivers "elsewhere" as those terms are intended in
14 the "Acknowledgement" attached as Exhibit A, dating back to March of 2006, one year
15 prior to *Bostain v. Food Express, Inc.*, (2007) 159 Wash. 2d 700 (the *Bostain* decision).
- 16 4. Testimony and documents, pertaining to, describing, and/or evidencing all
17 "compensation plans" paid by Swift to "Washington based drivers" and all documents
18 evidencing all "compensation plans" paid by Swift to its drivers "elsewhere" as those
19 terms are intended in the "Acknowledgement" attached as Exhibit A, dating back to
20 March of 2006 (one year prior to the *Bostain* decision).
- 21 5. Testimony and documents, pertaining to, and/or describing this Defendant contends
22 supports its claim that "mileage rates" paid by Swift to "Washington based drivers" are
23 higher than the "mileage rates" paid by Swift to its drivers "elsewhere" as those terms
are intended in the "Acknowledgement" attached as Exhibit A, dating back to March of
2006 (one year prior to the *Bostain* decision).

- 1 6. Testimony and documents, pertaining to, and/or describing this Defendant contends
2 supports its claim that "mileage rates" paid by Swift to "Washington based drivers"
3 includes an amount representing "overtime" pay as those terms are intended in the
4 "Acknowledgement" attached as Exhibit A, dating back to March of 2006 (one year
5 prior to the *Bostain* decision).
- 6 7. Testimony and documents, pertaining to, and/or describing Plaintiffs' class claims as
7 set out in Plaintiffs' Complaint (as amended), including, but not limited to, Plaintiffs'
8 claims regarding:
- 9 • Numerosity: That is, the number of Washington based drivers that have
10 worked for Defendant in the years beginning July 18, 2008 to the present who
11 drove over forty hours in a week and were paid predominantly by the mile, or
12 participated in the orientation and in-truck training program provided by
13 Defendant, or participated in the Defendant's "Per Diem" "benefit" program;
 - 14 • Questions of law or fact common to the class;
 - 15 • Typicality of the claims or defenses of the class;
 - 16 • Adequacy of representation of class members;
 - 17 • Predominant nature of questions of law or fact common to the members of the
18 class compared to any questions affecting only individual members; and
 - 19 • Manageability of the Class Claims, or the Superiority of class treatment of the
20 claims as compared to other available methods of adjudication of the
21 controversy.
- 22 8. Testimony and documents, detailing, pertaining to, and/or describing Defendant
23 Swift's policies and practices regarding the maintenance of records of hours worked
and wages paid for truck drivers, both local and line haul, for the last ten years,
including records and the manner of record storage of all paid driving trips performed
by Plaintiffs and potential class members.

- 1 9. Testimony and documents detailing, pertaining to, and/or describing Defendant Swift's
2 communications (if any) with the Washington Department of Labor and Industries
3 inquiring about, referencing, or seeking approval of any of Defendant's pay practices
4 pertaining to Washington State's requirement that Washington based drivers be paid
5 overtime for hours driven or worked over forty hours or be paid the reasonable
6 equivalent of overtime pay.
- 7 10. Testimony and documents, detailing, pertaining to, and/or describing the training or
8 orientation of Plaintiffs, and/or all Washington-based drivers, employed by Defendant
9 regarding payment programs or policies for hours driven or worked in excess of forty
10 hours in a week.
- 11 11. Testimony and documents, detailing, pertaining to, and/or describing any and all
12 communications with any or all Washington-based drivers, employed by Defendant at
13 any time during the claim period (July 18, 2008 to the present) regarding whether its
14 payment programs or policies for hours driven or worked in excess of forty hours in a
15 week include or do not include any provisions for the payment of overtime for hours
16 driven or worked in excess of forty hours in a week.
- 17 12. Testimony and documents, detailing, pertaining to, and/or describing any and all
18 communications with any or all Washington-based drivers (employed by Defendant at
19 any time since 1998 to the present) regarding whether its payment programs or
20 policies for hours driven or worked in excess of forty hours in a week include or do not
21 include any provisions for the payment of overtime for hours driven or worked in
22 excess of forty hours in a week.
- 23 13. Testimony and documents pertaining to, detailing and describing the orientation
material and documents provided to new hires, including the compensation or lack of
compensation associated with the orientation of new drivers.
14. Testimony and documents, detailing, pertaining to, and/or describing the "in-truck"

1 training program implemented by Defendant during the claim period, including the
2 pay plans associated with those "in-truck" training periods for the driver trainees.

3 15. Testimony and documents, detailing, pertaining to, and/or describing the methodology
4 used by the Defendant Swift to support its position that its compensation is reasonably
5 equivalent to overtime.

6 16. Testimony and documents, detailing, pertaining to, and/or describing the pay plans for
7 local and line haul drivers that were in place from 1995 through 2007.

8 17. Testimony and documents, detailing, pertaining to, and/or describing the changes to
9 your compensation plans for line haul drivers that occurred after the *Bostain* decision.

10 18. Testimony and documents, detailing, pertaining to, and/or describing the changes to
11 your compensation plans for local drivers that occurred after 1997.

12 19. Testimony and documents, detailing, pertaining to, and/or describing Defendant
13 Swift's pay plans and policies for local and line haul truck drivers for the last ten years,
14 including the positions of the persons involved in formulating the plans and policies,
15 what training, if any, is provided to inform employees and supervisors of these
16 policies, and what measure, if any, are taken to ensure compliance with these policies.

17 20. Testimony and documents, detailing, pertaining to, and/or describing the methodology
18 used to establish competitive rates of pay for your drivers.

19 21. Testimony and documents, detailing, pertaining to, and/or describing the job
20 descriptions in your policy manual.

21 22. Testimony and documents, detailing, pertaining to, and/or describing the basis upon
22 which Defendant Swift asserts it has acted in good faith.

23 23. Testimony and documents, detailing, pertaining to, and/or describing the nature and
extent of any information concerning current and former employees that is
maintained on or retrievable from any computer or other electronic or mechanical
source of Defendant Swift, including, but not limited to, information concerning hire

1 date, job assignments, hours worked, overtime worked, compensation, rates of pay,
2 termination date, and any other personnel, human resource, or employment data.

3 24. Testimony and documents, detailing, pertaining to, and/or describing the most
4 efficient, effective and reliable method of tabulating or compiling information for
5 Defendant Swift concerning hire date, job assignments, hours worked, overtime
6 worked, compensation, rates of pay, termination date, and any other personnel,
7 human resource, or employment data.

8 25. Testimony and documents, detailing, pertaining to, and/or describing the job
9 requirements for hourly truck drivers and job requirements for drivers paid by the
10 mile.

11 26. Testimony and documents, detailing, pertaining to, and/or describing the record
12 retention policy of Defendant Swift and the means by which Defendant Swift
13 maintains information on current and former employees.

14 27. Testimony and documents, detailing, pertaining to, and/or describing the nature and
15 type of work performed by Plaintiffs and similarly situated workers on Defendant
16 Swift's behalf.

17 28. Testimony and documents, detailing, pertaining to, and/or describing the identity of
18 the person(s) who supervised, managed, evaluated or otherwise monitored the work
19 performed by the named Plaintiffs on Defendant Swift's behalf.

20 29. Testimony and documents, detailing, pertaining to, and/or describing the steps taken
21 to notify drivers that the mileage rates were reasonably equivalent to overtime.

22 30. Testimony and documents, detailing, pertaining to, and/or describing the identity of all
23 Washington based drivers as classified by Defendant Swift.

31. Testimony and documents pertaining to, and/or describing to Defendant Swift's
22 responses to any discovery served in this case.

32. Testimony and documents, detailing, pertaining to, and/or describing Defendant

Swift's pay plans for drivers that are not Washington based drivers as Defendant Swift defines or classifies those drivers.

33. Testimony and documents pertaining to, detailing and/or describing Defendant Swift's "PER DIEM" pay plan "benefit" for drivers that are Washington based drivers as Defendant Swift defines or classifies those drivers, as that part of the benefit plan was implemented from July 18, 2008 to the present.

34. Testimony and documents pertaining to, detailing and/or describing Defendant's knowledge of the requirement of compensating its Washington based drivers for hours driven over forty hours a week at any time, from 1998 to the present.

35. Testimony and documents pertaining to, detailing and/or describing Defendant's knowledge of the requirement of compensating its Washington based drivers for overtime pay (or the reasonable equivalent thereof) for all hours driven over forty hours in a week at any time, from 1998 to the present, and any and all actions Defendant took to comply with this requirement at any time from 1998 to the present.

Dated: February 18, 2013.

Respectfully submitted,

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ANGELA J. MASON

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(334) 699-6885 – Facsimile

CERTIFICATE OF SERVICE

I hereby certify that on February 18, 2013, I caused to be served a copy of the foregoing **Plaintiffs' Second Amended Notice of 30(b)(5) and (6) Deposition** on the following person(s) in the manner indicated below at the following address(es):

Rudy A. Englund, Esq.
EnglundR@LanePowell.com
Lane Powell, PC
1420 Fifth Avenue, Suite 4100
Seattle, WA 98101-2338

Ellen Brochetti, Esq.
Ebronchetti@sheppardmullin.com
Paul Cowie, Esq.
pcowie@sheppardmullin.com
Sheppard Mullin Richter & Hampton LLP
379 Lytton Avenue
Palo Alto, CA 94301-1479

- By Electronic Mail
- By First Class Mail

JOSEPH D. LANE

Second Amended Notice of 30(B)(5) & (6)
Deposition

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